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# MINUTES

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## **DEVELOPMENT AND INFRASTRUCTURE SERVICES COMMITTEE MEETING**

**Wednesday 11 July 2018**

6.00pm

City of Albany Council Chambers

**CITY OF ALBANY  
COMMUNITY STRATEGIC PLAN (ALBANY 2023)**

**VISION**

Western Australia's most sought after and unique regional city to live, work and visit.

**VALUES**

All Councillors, Staff and Volunteers at the City of Albany will be...

**Focused: on community outcomes**

This means we will listen and pay attention to our community. We will consult widely and set clear direction for action. We will do what we say we will do to ensure that if it's good for Albany, we get it done.

**United: by working and learning together**

This means we will work as a team, sharing knowledge and skills. We will build strong relationships internally and externally through effective communication. We will support people to help them reach their full potential by encouraging loyalty, trust, innovation and high performance.

**Accountable: for our actions**

This means we will act professionally using resources responsibly; (people, skills and physical assets as well as money). We will be fair and consistent when allocating these resources and look for opportunities to work jointly with other directorates and with our partners. We will commit to a culture of continuous improvement.

**Proud: of our people and our community**

This means we will earn respect and build trust between ourselves, and the residents of Albany through the honesty of what we say and do and in what we achieve together. We will be transparent in our decision making and committed to serving the diverse needs of the community while recognising we can't be all things to all people.

## TERMS OF REFERENCE

(1) **Functions:** The Committee is responsible for:

Development Services:

The delivery of the “*Liveable Environmental Objectives*” contained in the City of Albany Strategic Plan:

- Advocate, plan and build connected, liveable communities.
- Create a community that supports people of all ages and backgrounds.
- Create vibrant neighbourhoods which are safe yet retain our local character and heritage.

Infrastructure Services:

The delivery of the “*Clean and Green Objectives*” contained in the City of Albany Strategic Plan:

- To protect and enhance our pristine natural environment.
- To promote environmental sustainability.
- To promote our region as clean and green.

(2) **It will achieve this by:**

- (a) Developing policies and strategies;
- (b) Establishing ways to measure progress;
- (c) Receiving progress reports;
- (d) Considering officer advice;
- (e) Debating topical issues;
- (f) Providing advice on effective ways to engage and report progress to the Community; and
- (g) Making recommendations to Council.

(3) **Membership:** Open to all elected members.

(4) **Meeting Schedule:** Monthly

(5) **Meeting Location:** Council Chambers

(6) **Executive Officers:** Executive Director Infrastructure and Environment, Executive Director Development Services

(7) **Delegated Authority:** None

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**1. DECLARATION OF OPENING**

The Chair declared the meeting open at **6.00pm**

**2. PRAYER AND ACKNOWLEDGEMENT OF TRADITIONAL LAND OWNERS**

*“Heavenly Father, we thank you for the peace and beauty of this area. Direct and prosper the deliberations of this Council for the advancement of the City and the welfare of its people. Amen.”*

*“We would like to acknowledge the Noongar people who are the Traditional Custodians of the Land.*

*We would also like to pay respect to Elders both past and present”.*

**3. RECORD OF ATTENDANCE, APOLOGIES AND LEAVE OF ABSENCE**

Mayor D Wellington

**Councillors:**

Member	P Terry
Member	J Shanahun (Chair)
Member	S Smith
Member	A Goode JP
Member	A Moir
Member	R Sutton (Deputy Chair)
Member	E Doughty
Member	R Hammond
Member	T Sleeman
Member	G Stocks

**Staff:**

Acting Chief Executive Officer	M Cole
Executive Director Development Services	P Camins
Acting Executive Director Infrastructure and Environment	D King
Meeting Secretary	J Cobbold

**Apologies:**

Member	B Hollingworth
Member	R Stephens
Chief Executive Officer	A Sharpe
Executive Director Infrastructure and Environment	M Thomson

**4. DISCLOSURES OF INTEREST**

Name	Committee/Report Item Number	Nature of Interest
Cr Paul Terry	DIS105	Financial

**5. RESPONSE TO PREVIOUS PUBLIC QUESTIONS TAKEN ON NOTICE - NIL**

**6. PUBLIC QUESTION TIME**

**6.01pm** - Mr Richard Vogwill, 53 La Perouse Rd – DIS104 – Tabled – Annexe A

**6.06pm** - Mr Max Angus, 43 La Perouse Rd – DIS104 – Tabled – Annexe B

**6.10pm** - Mr Ian Herford, 14 Grove St West – DIS104 – Spoke against

**6.14pm** -Dr Catherine McDonald, 53 La Perouse Rd – DIS104 – Tabled – Annexe C

**6.19pm** – Ms Jenni Leonard, 48 Karrakatta Rd – DIS104 – Spoke Against

**6.23pm** -Peter Morris – Elizabeth St Mt Melville - DIS104 – Spoke Against

**6.27pm** - Mr Tony Kinlay, 10 La Perouse Rd – DIS104 – Tabled – Annexe D

**6.32pm** - Mr Roland Paver, 12 La Perouse Crt – DIS104 – Tabled – Annexe E

**6.36pm** - Mr Rob Donovan, 26 La Perouse Crt – DIS104 – Spoke Against

**6.40pm** - Dr Giles Watson, -5 Queen St Little Grove - DIS104 – Spoke Against

**6.45pm** – Mr Darren Moir, 14 Sanwood Rd – DIS105 – Spoke Against

**6.47pm** – Ms Antonio Paver – 12 La Perouse Crt – DIS104 – Spoke Against

**6.49pm** – Ms Joanne Headlam 109 La Perouse Rd – DIS104 – Tabled – Annexe F

**6.52pm** – Ms Adrianna Stainwright 69 La Perouse Rd – DIS104 – Tabled – Annexe G

**6.56pm** – Ms Linda Matthews La Perouse Rd – DIS104 Tabled – Annexe H

**7.00pm** – Ms Lyne White 4 Karrakatta Rd – DIS104 –Spoke Against

**7.01pm** – Mr Henry Dykstra - Serpentine Rd – DIS105 Spoke For with modifications

**7.05pm** - Mr Peter Gleed, - 65 Connolly Rd Margaret River - DIS104 – Spoke For

**7. PETITIONS AND DEPUTATIONS Nil**

**8. CONFIRMATION OF MINUTES**

**DRAFT COMMITTEE RESOLUTION**

**MOVED: COUNCILLOR SMITH  
SECONDED: COUNCILLOR STOCKS**

**THAT the minutes of the Development and Infrastructure Services Committee meeting held on 13 June 2018, as previously distributed, be CONFIRMED as a true and accurate record of proceedings.**

**CARRIED: 11-0**

**9. PRESENTATIONS NIL**

**10. UNRESOLVED BUSINESS FROM PREVIOUS MEETINGS NIL**

**DIS104: LOCAL STRUCTURE PLAN NO.9 – LOT 660 LA PEROUSE ROAD, GOODE BEACH.**

<b>Land Description</b>	: Lot 660 La Perouse Road, Goode Beach
<b>Proponent / Owner</b>	: AHOLA Planning / Dr Cherry Martin
<b>Business Entity Name</b>	: TINKO PTY LTD (Directors – Dr Cherry Martin and Rolf Hermann Ludwig Koch) Andrea Ursula Whiting
<b>Attachments</b>	: 1. Local Structure Plan No.9; 2. Refuge Building Area; 3. Schedule of Submissions; 4. Schedule of Provisions; 5. Current zone and reservation; 6. Structure Planning Area; 7. Development Scenarios (Existing/Proposed – indicative); 8. 1987 Resort Approval; 9. 15 Lot subdivision proposal.
<b>Supplementary Information &amp; Councillor Workstation</b>	: 1. Copy of Submissions; 2. Letter from Environmental Protection Authority; 3. Letter to the City of Albany – Update on Structure Plan; 4. EPA Statement 319; 5. Letter – Minister’s decision on Amendment 143; 6. Amazing South Coast – Project Sheet; 7. ‘State Government Strategy for Tourism in Western Australia 2020’.
<b>Report Prepared By</b>	: Senior Planning Officer – Strategic Planning (A Nicoll)
<b>Responsible Officers:</b>	: Executive Director Development Services (P Camins)

**STRATEGIC IMPLICATIONS**

1. When exercising discretion in relation to planning matters, the pertinent strategic document is the *Albany Local Planning Strategy*.
2. The proposal is consistent with the City of Albany *Local Planning Strategy (2010)*, which makes the following recommendation:
  - *Encourage the development of sustainable tourism uses and proposals that integrate with the City’s unique natural and man- made landscape and heritage values.*
3. Map 9b of the City’s Local Planning Strategy (2010) designates the subject site (Lot 660) as being suitable for ‘Conservation’. The rezoning of the site, in 2014, to ‘Special Use’ and Parks and Recreation, is considered to have implemented this strategic designation.
4. The City’s Draft Local Planning Strategy (*Draft 2018*), which has been certified for advertising, seeks to encourage the development of tourism uses at the subject site.
5. The item relates to the following elements of the City of Albany Strategic Community Plan:
  - Theme: 2 – Smart Prosperous & Growing.
  - Objective: 2.3 - develop and promote Albany as a unique and sought-after visitor location.
  - Community Priority: 2.3.2 - Promote the “Amazing South Coast” region as a sought after and iconic tourism destination to increase the number of people visiting and the duration they stay.



**Maps and Diagrams: Subject Site – Lot 660**



**In Brief:**

- Local Structure Plan No.9 has been prepared to justify variations to the Local Planning Scheme No.1 provisions pertaining to the site and to guide and facilitate future amendment to the Local Planning Scheme Number 1 and the subsequent development of the subject land.
- The Western Australian Planning Commission has accepted Local Structure Plan No.9 as the appropriate mechanism to coordinate a future scheme amendment.
- The structure plan proposes the following key elements;
  - A 'Holiday Accommodation Precinct' comprising of:
    - A Maximum of ten (10) two storey holiday accommodation buildings comprising of a maximum total of 51 units (approximately 5 units/building);
    - Maximum 120 persons at capacity;
    - A function centre with the dual function of being a refuge (bushfire) building;
    - Café/dining/restaurant; and
    - Manager's residence.
  - 'Development Buffer Precinct' comprising of:
    - Access, car parking, waste treatment, pool and asset (bushfire) protection.
  - 'Remnant Vegetation Precinct', comprising of:
    - Vegetation protection areas; and
    - Access.
- The Environmental Protection Authority was consulted on environmental grounds and it was determined that referral should be made to the Environmental Protection Authority at the scheme amendment stage.

- It is considered that the matters raised during the referral process can be appropriately managed and mitigated via conditions and ongoing environmental management requirements.
- Council is requested to consider the submissions received following public advertising and referral and determine whether to recommend support of Local Structure Plan No.9 to the Western Australian Planning Commission.

#### RECOMMENDATION

**DIS104: COMMITTEE RECOMMENDATION (AMENDED MOTION BY COUNCILLOR TERRY)**

**MOVED: COUNCILLOR STOCKS**

**SECONDED: COUNCILLOR SUTTON**

**THAT Council, pursuant to section 75 of the *Planning and Development Act 2005* and regulation 20. (2)(e) of the *Planning and Development (Local Planning Schemes) Regulations 2015*, resolves to:**

- 1. Recommend that the Western Australian Planning Commission approve Local Structure Plan No.9, subject to the following modification:**

**a) Inserting provisions as detailed in the attached 'Schedule of Provisions'**

**but replacing provision 16 for the Holiday Accommodation Precinct, with the following:**

- 16. Prior to the submission of a Scheme Amendment, Lake Vancouver water level data and adjacent groundwater data shall be collected as required to measure the depth of groundwater and direction and rate of flow of the groundwater.**

**The updated data needs to be collected from existing and additional bores and piezometers as required at appropriate times of the year to establish the extent and period of flow, if any, toward Lake Vancouver.**

**Management and/or mitigation measures shall be determined by a qualified hydrologist in response to findings from this monitoring and shall be incorporated into the LPS provisions to the satisfaction of the City of Albany.**

- 2. Forward the structure plan documentation, submissions and recommended provisions to the Western Australian Planning Commission with a request that the Commission grant approval to the structure plan.**
- 3. Advise the applicant/owner and those who lodged a submission of the Council decision accordingly.**

**CARRIED: 9-2**

**Against the motion – Councillor Moir and Councillor Shanhun**

DIS104: AMENDMENT BY COUNCILLOR TERRY  
VOTING REQUIREMENT: SIMPLE MAJORITY

MOVED: COUNCILLOR TERRY  
SECONDED: COUNCILLOR STOCKS

THAT Council, pursuant to section 75 of the *Planning and Development Act 2005* and regulation 20. (2)(e) of the *Planning and Development (Local Planning Schemes) Regulations 2015*, resolves to:

4. Recommend that the Western Australian Planning Commission approve Local Structure Plan No.9, subject to the following modification:

b) Inserting provisions as detailed in the attached 'Schedule of Provisions', **but replacing provision 16 for the Holiday Accommodation Precinct, with the following:**

**16. Prior to the submission of a Scheme Amendment, Lake Vancouver water level data and adjacent groundwater data shall be collected as required to measure the depth of groundwater and direction and rate of flow of the groundwater.**

**The updated data needs to be collected from existing and additional bores and piezometers as required at appropriate times of the year to establish the extent and period of flow, if any, toward Lake Vancouver.**

**Management and/or mitigation measures shall be determined by a qualified hydrologist in response to findings from this monitoring and shall be incorporated into the LPS provisions to the satisfaction of the City of Albany.**

5. Forward the structure plan documentation, submissions and recommended provisions to the Western Australian Planning Commission with a request that the Commission grant approval to the structure plan.

6. Advise the applicant/owner and those who lodged a submission of the Council decision accordingly.

CARRIED:9-2

Against the motion – Councillor Moir and Mayor Wellington

**Councillor Reason:**

The existing provision 16 is not clear. The amended provision spells out the procedure and purpose for collecting water data. In particular, establishing the extent and period of flow, if any, toward Lake Vancouver.

**Officer Comment (Executive Director Development Services):**

We are supportive of this amended motion, which seeks to ensure useful data is recorded to inform development and management of the land.

DIS104: RESPONSIBLE OFFICER RECOMMENDATION

THAT Council, pursuant to section 75 of the *Planning and Development Act 2005* and regulation 20. (2)(e) of the *Planning and Development (Local Planning Schemes) Regulations 2015*, resolves to:

7. Recommend that the Western Australian Planning Commission approve Local Structure Plan No.9, subject to the following modification:
  - c) Inserting provisions as detailed in the attached 'Schedule of Provisions'
8. Forward the structure plan documentation, submissions and recommended provisions to the Western Australian Planning Commission with a request that the Commission grant approval to the structure plan.
9. Advise the applicant/owner and those who lodged a submission of the Council decision accordingly.

**BACKGROUND**

6. *Local Planning Scheme No. 1* was endorsed on 28 April 2014 and consists of the Scheme Text and the Scheme Maps.
7. The endorsement of the scheme included an assessment by the Environmental Protection Authority. The assessment undertaken by the Environmental Protection Authority did not declare the Lot 660 to be 'Environmentally Sensitive'. Subsequently, Lot 660 has been partly zoned 'Special Use' to accommodate holiday accommodation and partly reserved 'Parks and Recreation' (refer to the above map).
8. Prior to the current proposal, there have been three substantive proposals previously considered for the subject land, these include;
  - a) The first application (1987) was for a 'Resort Hotel and Hotel Complex' development, which was conditionally approved.
  - b) The second application was for a rezoning to create fifteen 'Special Residential' lots (1999). The Environmental Protection Authority (EPA) recommended conditional support for the proposal. The Minister for Planning however decided to:
    - i. Support a maximum six 'Special Residential' lots; and
    - ii. Recommend that the landholder pursue an appropriate zoning of the remaining rural lot to reflect the potential for low key tourism.
  - c) The third application (current local planning scheme situation) was for the rezoning of the 'Rural' lot to the 'Special Use' zone to reflect the Planning Minister's previous advice. The following provisions were included:
    - i. Support holiday accommodation subject to provisions culminating from a 'Development Guide Plan' including:
      - (i) Max 10 chalet/cottage units
      - (ii) Buildings clustered
      - (iii) Minimising clearing
      - (iv) Designing buildings to blend with the site
      - (v) Coastal setbacks
      - (vi) Foreshore management plan
      - (vii) Management of stormwater and effluent disposal to limit impact on the Lake Vancouver
      - (viii) Potable water supply
      - (ix) Implementing bushfire management criteria

9. Please note the following in relation to the above:
- a) The City's scheme defines a 'chalet/cottage unit' as follows:  
*Chalet/cottage unit means a building that is used or provided for use for holiday accommodation purposes and is generally developed as self-contained building(s).*
  - b) The City's scheme does not restrict the size of chalet/cottage unit that may be placed on the subject Lot 660.
  - c) The City's scheme does not restrict the amount of persons that may reside within a chalet/cottage unit developed at Lot 660.
10. The City of Albany has now received a structure plan application pertaining to the subject Lot 660, proposing the following;
- 'Holiday Accommodation Precinct' comprising:
    - Maximum ten (10) two storey holiday accommodation buildings comprising maximum total 51 units (approximately 5 units each);
    - Maximum 120 persons at capacity;
    - Function centre also developed as a refuge (bushfire) building;
    - Café/dining/restaurant; and
    - Manager's residence.
  - A 'Development Buffer Precinct' comprising:
    - Access, car parking, waste treatment, pool and asset (bushfire) protection.
  - A 'Remnant Vegetation Precinct', comprising:
    - Vegetation protection; and
    - Access.
11. The *Planning and Development (Local Planning Schemes) Regulations 2015* (Schedule 2, Part 4, cl14) defines a structure plan as;  
*"A plan for the coordination of future subdivision and zoning of an area of land."*
12. The structure plan is a guide for future planning. A scheme amendment process will have to occur subsequent to the structure planning process and will involve referral to the Environmental Protection Authority, public consultation, and ultimately determination by the Minister for Planning.

## DISCUSSION

13. The structure plan submitted for approval, addresses the *Planning and Development (Local Planning Schemes) Regulations 2015* (Part 4 cl16) as follows:
- a) The Western Australian Planning Commission has preliminarily assessed the structure plan and agreed that satisfactory information has been provided including:
    - i. Key attributes and constraints of the area covered by the plan including the natural environment, landform and the topography of the area;
    - ii. Planning context for the area covered by the plan and the neighbourhood and region within which the area is located;
    - iii. any major land uses, zoning or reserves proposed by the plan;
    - iv. estimates of the future number of lots in the area covered by the plan and the extent to which the plan provides for dwellings, retail floor space or other land uses;
    - v. Population impacts that are expected to result from the implementation of the plan;
    - vi. Extent to which the plan provides for the coordination of key transport and other infrastructure;
    - vii. Proposed staging of the subdivision or development covered by the plan.

14. The structure plan is supported by the following studies and management plans:
  - a) Coastal Hazard Assessment & Risk Management Strategy (MP Rogers & Associates Pty Ltd);
  - b) Environmental Assessment (Aurora Environmental);
  - c) Targeted Survey for Western Ringtail Possum, Main's Assassin Spider and Black Cockatoo (Aurora Environmental);
  - d) Bushfire Management Plan (Eco Logical Australia in association with Biodiverse Solutions);
  - e) Civil Engineering Report (Stormwater Management, Traffic Management, Effluent Management - Wood & Grieve Engineers); and
  - f) Resort Concept Plan (Grounds Kent Architects).
15. The City of Albany advertised the proposed Local Structure Plan No.9 in accordance with the *Planning and Development (Local Planning Schemes) Regulations 2015*.
16. In addition to this, the City of Albany has facilitated conversations between landholders, consultants, City of Albany staff and Councillors to better inform all parties concerned.
17. At the close of advertising, the City of Albany received 110 submissions commenting on the proposed structure plan.
18. Comments received during the advertising and referral process have been summarised in a schedule (attached) under the following key headings:
  - a) Tourism;
  - b) Utilities;
  - c) Environment;
  - d) Bushfire;
  - e) Building Scale/Design;
  - f) Access;
  - g) Character – Goode Beach;
  - h) Views/Visual/Noise/Lighting;
  - i) Aboriginal Heritage;
  - j) Consultation;
  - k) Process – Structure Planning;
  - l) Previous Decisions;
  - m) Soils;
  - n) Unexploded Ordnance.
19. The following key comments were made during the advertising process:
  - a) Given the tourist attractions in the area, there's a need for 5 star tourist accommodation.
  - b) The City's planning scheme and policy recommend small scale development.
  - c) Approval is required for any on-site waste water treatment process with such proposals being in accordance with Department of Health publications (Department of health).
  - d) Doubt regarding the environmental assessments, in-particular the potential impacts on groundwater, Lake Vancouver and flora and fauna.
  - e) Concern relating to clearing of vegetation and the potential detrimental impact on Black Cockatoo and Western Ringtail Possum habitat.
  - f) Concern in respect to potential stormwater/effluent contamination to the Lake Vancouver ecosystem.
  - g) Development associated with unstable, fragile dune system, susceptible to sea level rise and storm surge.
  - h) The potential for the introduction of weeds and disease (Phytophthora).
  - i) Proposed development in land reserved for 'Parks and Recreation'.
  - j) Conflict with legislative requirements (e.g. State Coastal Planning Policy 2.6 and Ministerial Statement 319).

- k) Development of a 'Refuge' area or building (Department of Fire and Emergency Services).
  - l) The scale of development and the potential impact to the character of Goode Beach, including noise, visual, pedestrian movement, lighting, traffic and use of reserve and beaches.
  - m) Noongar culture and heritage consultation.
  - n) The community consultation process.
  - o) The structure planning process is being used to circumnavigate current development standards.
  - p) Unexploded ordnance may exist on the land.
20. The applicants were requested by City Staff to do additional work in response to some of the submissions received, this included work on Bushfire planning and Environmental matters.
21. WAPC granted time extensions for this purpose in accordance with the Planning and Development (Local Planning Schemes) Regulations 2015.
22. Council is now asked to consider comments received and is requested to make a recommendation to the Western Australian Planning Commission (WAPC).
23. The submissions received cover a broad range of matters, which are addressed in the attached Schedule of Submissions. The key matters which emerged are discussed in detail below:

#### Tourism

24. Comments were received in both support and opposition to the tourism nature and merit of the proposal. A number of submissions outlined the need for the area to have a unique, high quality tourist resort. A number of submitters put forward that the proposal should not be supported as it is in conflict with City of Albany statutory requirements.
25. In respect to the above, it is considered that the proposed structure plan for the subject site compliments the City's Local Planning Strategy (Draft 2018), the '*State Government Strategy for Tourism in Western Australia 2020*' and the '*Amazing South Coast Tourism Development Strategy*'. The City's Local Planning Strategy (Draft 2018), seeks to encourage the development of tourism uses at the subject site. The '*State Government Strategy for Tourism in Western Australia 2020*', sees the Governments role to include; *creating a favourable environment for tourism infrastructure investment and development, through policy creation*. The '*Amazing South Coast Tourism Development Strategy*' seeks to; *strengthen and diversify the economic base of the Amazing South Coast through unified promotion and development of an abundance of unique and unrivalled experiences. With an ultimate goal of, three million visitor nights by 2021.*
26. While noting a nearby tourist development has recently been approved (not yet constructed) the current tourist accommodation opportunity within the locality is lacking. At present, tourists rely on accommodation within Albany's central business district, which is located approximately 24 kilometres away.
27. The proposed structure plan seeks to create the framework for a quality resort in an iconic location, within close proximity to tourist attractions.

Utilities

28. A number of submissions have raised concerns over the ability of the proposal to sufficiently deal with onsite effluent disposal and potable water.
29. The Water Corporation confirmed that the current Water Corporation reticulation system can serve the proposed development on Lot 660.
30. The Department of Health advised that approval from the Department of Health is required for any on-site waste water treatment. Any such proposals are to be in accordance with Department of Health publications.
31. A report provided by Wood and Grieve Engineers establishes that current wastewater treatment technology to collect, treat and utilise (treated) wastewater may be developed at the subject site to accommodate the proposed development, in accordance with the health, environmental and engineering requirements of Western Australia.
32. The effluent system proposed by the structure plan consists of two wastewater treatment plants. The main plant accommodates the short stay units and the minor plant accommodates the kitchen/restaurant. The kitchen/restaurant has been provided with a dedicated treatment plant to mitigate any risk.
33. It is recommended that provisions are included to address concerns raised, including:
  - a) Effluent disposal systems are to be approved and managed in perpetuity to the satisfaction of the Department of Health and City of Albany.
  - b) Effluent quality should meet nutrient concentration targets of 10mg/L of nitrogen and 1mg/L of phosphorous.
  - c) Effluent disposal systems being in accordance with Department of Health publications; and
  - d) On-site sewage disposal is to be located at least 100m from the edge of the wetland (McBI) vegetation. The 100m setback is in response to recommendation of the Department of Water and Environmental Regulation.

Environment

34. Submissions received from both the community and government agencies raised concerns that development of the structure plan may potentially impact on the environment.
35. The Department of Biodiversity, Conservation and Attractions (DBCA) advised that:
  - *There is little recognition of Lake Vancouver as a wetland of regional significance (South Coast Significant Wetlands, DoW 2008), and more detail on potential impacts would be useful.*
36. In response to the DBCA comment on Lake Vancouver, the following applies:
  - The structure plan is proposing to protect the integrity of the environment in accordance with preliminary consultation with the Department of Biodiversity Conservation and Attractions, relevant legislation and an environmental assessment of the site. It was indicated by the Department of Biodiversity Conservation and Attractions, that wetland boundaries and associated setbacks based solely on hydric soils (in this case *Melaleuca cuticularis* / *Banksia littoralis* (McBI) vegetation as outlined in DER's *Wetland Buffer Study Report Case Study 3*) had not been adopted by the department due to difficulties with identification and application in the planning context. A conceptual approach was therefore discussed with DBCA, with the protection of the McBI vegetation (vegetation directly around the lake) as a suitable method for considering setbacks.
  - The structure plan documentation (Aurora, 2017 Section 2.9) acknowledges the conservation status of Lake Vancouver and has incorporated best practice



management options to mitigate risks to the lake (i.e. for road, other structure, stormwater, effluent treatment).

- The environmental scientist (Aurora Environmental) acting on behalf of the structure plan undertook an environmental assessment of the subject land. The wetland, flora and fauna, hydrology and threatened species were all assessed in accordance with legislative standards and consultation with government agencies. The structure plan has been designed considerate of environmental imperatives, including protecting vegetation surrounding the lake and managing effluent and stormwater in accordance with legislative standards.
- Flora and fauna surveys have been used to inform the structure planning process. Vegetation associated with Lake Vancouver will not be disturbed. It is not necessary to undertake additional surveys for the following reasons:
  - A total of 56 native species were recorded during a flora survey carried out in June 1992 by Alan Tingay and Associates. The survey covered Lot 660, Reserve 48916 (Lake Vancouver) and Reserve 28111 (foreshore reserve). The species list has been checked for changes to nomenclature and compared to the most recent Threatened and Priority species listed under Schedule 1 of the *Western Australian Wildlife Conservation Act 1950*. No Threatened or Priority species were recorded on site. In addition, no species listed as Threatened under the *Commonwealth Environment Protection and Biodiversity Conservation Act 1999* were recorded.
  - Targeted surveys for three species of Threatened Black Cockatoo, Western Ringtail Possum and Main's Assassin Spider have been undertaken. A Western Ringtail Possum was detected to the west of Lake Vancouver during a targeted fauna survey on 6 December 2016 (Appendix 14). Potential foraging habitat for Black Cockatoos was identified in a targeted fauna survey as occurring immediately around Lake Vancouver (McBI) and to the west of the lake (AfEmt and Mt). This vegetation type is not proposed to be cleared.
  - The environmental consultant working on-behalf of the landholder also classified vegetation on the subject land by comparing to a mosaic of Albany Regional Vegetation Survey Units (Peppermint low forest, coastal heath and coastal limestone heath) undertaken for land to the north of the subject site. It was determined by the consultant that the vegetation units described are well represented in the ARVS study area and in the region. This was not contested by the DBCA.
  - Aurora Environmental has undertaken a targeted survey of the area proposed to be cleared for the Threatened flora species, *Calectasia cyanea* (Blue Tinsel Lily) on 20 October 2017 (flowering period of the species is June to October). The species was not detected and it was also noted that the habitat surveyed (*Agonis flexuosa*/ *Adenanthos sericeus* Closed Scrub) was not likely to host the species.
- No Threatened or Priority species were recorded on site. In addition, no species listed as Threatened under the *Commonwealth Environment Protection and Biodiversity Conservation Act 1999* were recorded.

37. The Department of Water and Environmental Regulation (DoWER) who are not in support of the proposal stated that:

- *The hydrological data and analysis provided by the consultant in the Structure Plan report does not adequately describe the current pre-development hydrology and insufficient analysis is presented to adequately demonstrate the post-development hydrology has been considered or how risks have been addressed; and*
- *The increased hydraulic loading from the development may impact the hydraulic gradient, leading to greater groundwater flow towards the lake.*
- *A Local Water Management Strategy is required to prove that the land is capable of development and that water can be appropriately managed.*
- *The department's guidelines (Wetland buffers - Water & Rivers Commission, Water Notes No.4 January 2000) recommends that a minimum buffer of 50 m is established*

*from the boundary of wetland dependent vegetation with the exception of wetlands which have significant conservation values. In these instances a buffer of 200 m or greater may be recommended.*

38. In response to the DoWER comments on hydrological data and water management, the following applies:

- A civil engineering report was prepared to support the development and includes an existing catchment plan that identifies catchment low points as well as potential major event flow path. A Stormwater Management Concept was consequently prepared which considers infiltration and/or conveyance and infiltration of all storm events up to and including the 1:100 year ARI event. The Concept uses an indicative resort design concept (comprising of buildings, roads, parking pavement, pedestrian pathways that have been prepared in consideration of the opportunities and constraints of the land) to identify the estimated impervious areas, stormwater volumes and events and pavement flows.
- Soil testing investigations undertaken by Aurora Environmental confirm that the proposed tourist resort site is free draining and well above the assessed groundwater levels. Furthermore, the site permeability tests confirm that the site is capable of infiltrating in excess of the 1:100 year ARI storm event.
- All stormwater generated from impervious surfaces in relation to the tourist resort (buildings and pavement) will be contained on-site;
- Roof based stormwater runoff will be stored in rainwater tanks plumbed into each unit for reuse in toilets, washing facilities and the proposed swimming pool. Overflows from water tanks will be infiltrated at the point of discharge;
- Stormwater runoff from road pavements will be infiltrated at source through the use of vegetated swales;
- Stormwater management will incorporate the latest water sensitive urban design elements;
- It will be required that prior to the submission of a Scheme Amendment, a Local Water Management Strategy is completed to the satisfaction of the City of Albany, in accordance with Better Urban Water Management (WAPC, 2008) and in consultation with the Department of Water, Environment and Regulation.
- The proposed tourist development will be in compliance with the City of Albany's 'Development Guidelines' and Department of Water 'Stormwater Management Manual'. The DoWER confirmed within their submission that; *the proposed methodology for dealing with the stormwater generated on site is considered acceptable.*
- The structure plan considered Hydrological data recorded for the site (Groundwater Aspects of Residential Development, Alan Tingay and Associates 1992) and more recent groundwater data collected post November 2016. A groundwater report developed for the subject area concluded that a buffer zone of 60 m between residential development and Lake Vancouver is suitable. The report stated that this will provide opportunity for nutrient extraction by vegetation, and add to the protection of the lake water.
- Further to the above, it will be required that prior to the submission of a Scheme Amendment, surface water and groundwater data shall be seasonally collected from Lake Vancouver from five existing piezometers and bores. Management and/or mitigation measures determine by a qualified hydrologist in response to findings from this monitoring are to be incorporated into the LPS provisions to the satisfaction of the City of Albany.
- It is noted that the DoWER suggest an ideal 200m buffer to wetland dependent vegetation. In response to this recommendation, it is considered that in this case it is not a practical solution given that a previous decision and current scheme provisions created the area for development. Modifications to this buffer to the extent

recommended would create a situation where the land became undevelopable and would have the effect of reserving the land for conservation. If the land was ultimately reserved, the City would be liable for injurious affection and compensation.

- It is proposed to establish development with a minimum 100m buffer from the edge of the open water of Lake Vancouver, with protection of the hydrologically linked area (McBI – wetland vegetation). Development outside this area can be adequately managed (as per the draft Government Sewerage Policy) to mitigate risks to Lake Vancouver and associated vegetation.
- Setbacks to the beach foreshore and wetland vegetation surrounding the Lake Vancouver are proposed in accordance with the Draft Government Sewerage Policy (Government of WA, 2016), the Better Urban Water Management guidelines (WAPC, 2008) and discussions with the Department of Biodiversity Conservation and Attractions (January 2017).

39. The Frenchman Bay Association (FBA) stated that:

- *The FBA members are extremely concerned about protecting the pristine wetlands around Lake Vancouver, the destruction and degradation of the parabolic dunes, and the proposed development set-back of only 70 metres from the beach.*

40. In response to the FBA comment on protecting wetlands and dunes, the following applies:

- a) The subject land does have existing development rights in accordance with the City's *Local Planning Scheme No.1*. Three substantive proposals have been considered for the subject lot prior to the structure plan application being lodged.
  - The first application was for a 'Resort Hotel and Hotel Complex' development, which was conditionally approved in 1987.
  - The second application (see attachment 2) was for a rezoning to create fifteen 'Special Residential' lots (1999). The EPA recommended conditional support for the proposal. The Environmental Protection Authority concluded (Statement 319) that the management of environmental impacts can rely extensively on management controls through the planning process. The Minister for Planning recommended that the landholder pursue an appropriate zoning of the remaining rural lot to reflect the potential for low key tourism.
  - The third application (see attachment 2) was for the rezoning of the 'Rural' lot to the 'Special Use' zone to reflect the Minister's previous advice. Holiday accommodation may now be considered for development at the subject site.
- b) *Local Planning Scheme No.1* was endorsed on 28 April 2014 and consists of the Scheme Text and the Scheme Maps. The endorsement of the scheme included an assessment by the Environmental Protection Authority. The assessment undertaken by the Environmental Protection Authority did not declare the Lot 660 to be 'Environmentally Sensitive'.
- c) The proposed structure plan conforms to current scheme standards, including:
  - Department of Health and Water Corporation servicing standards;
  - Reference to the Biodiversity Act, which seeks to protect threatened species;
  - The Western Australian Liveable Neighbourhoods document for traffic design;
  - The State Planning Policy 3.7 Planning in Bushfire Prone areas;
  - The State Coastal Planning Policy 2.6 – Coastal Planning;
  - The City's Local Planning Scheme No.1 for setbacks to wetlands;
  - The Draft Government Sewerage Policy 2016 and the required setbacks to wetlands. It is proposed to install a package treatment plant that provides secondary treatment and removes nutrients (to 1 mg/L of phosphorus and 10 mg/L of nitrogen) as per 2016 Draft Government Sewerage Policy. The unit will also remove pathogens. Irrigation of the treated waste water will be set back from Lake Vancouver and spread over a minimum area of 4000 m<sup>2</sup> (in compliance with Schedule 3: Site Requirements for On-site Sewerage Disposal Systems in 2016

Draft Government Sewerage Policy and Department of Health (2015) Supplement to Regulation 29 and Schedule 9 – Wastewater System Loading Rates).

- d) Various management plans are proposed to oversee implementation and operation phases of development, including:
- An Urban Water Management Plan to ensure protection of water quality. This includes: best practice management, including no direct drainage into Lake Vancouver, treatments such as flush kerbing for diffuse discharge (where possible) and soil amendment of basins. Extra hydrological information to be gathered and analysed.
  - Foreshore Management Plan.
  - Coastal Management Plan.
  - Remnant Vegetation management Plan (weeds, disease and revegetation).
  - Bushfire Management Plan.
- e) Other than a 2.1ha proposed clearing for development, no other vegetation will be cleared. Remaining vegetation will be retained and managed to reduce risk of weeds and dieback.
- f) Any rehabilitation will use local native species (noting that landscaping within the development foot print will use a combination of native and non-native species). These objectives will be achieved through preparation of a Remnant Vegetation Management plan at the development approval stage.
- g) Development can achieve a 1.5m vertical separation from the discharge point of the on-site sewage disposal system to the highest groundwater level.
- h) A coastal management strategy has been prepared for this site in accordance with the requirements of the State Planning Policy 2.6 – State Coastal Planning Policy. The coastal management strategy outlined the potential implications of future sea level rise on the coastline and presented a future adaptation pathway whereby the risk of future coastal change is borne completely by the landowner. The coastal report has been reviewed and accepted by the Department of Planning, Lands and Heritage and the Department of Transport. The coastal report found that, even though the shoreline fronting the proposed site has only moved by around 2 metres in the period since 1961, allowance for future shoreline movement of 68 metres should be provided over the coming 50 years to ensure a low level of risk to the development over this time. In this regard, it is noted that a 50-year initial planning horizon has been adopted for this development on the basis that a tourist resort can generally be expected to have a useful service life of around 50 years before full redevelopment is required. Thereafter the redevelopment can be assessed and / or relocated as appropriate based on an assessment of coastal stability and risk at that time. Acceptance and acknowledgement of this risk is proposed through a notification on title as well as a commitment to undertake a managed retreat of the development at a time when identified trigger points are reached. Adoption of a managed retreat approach is entirely consistent with the policy requirements (refer to SPP2.6 Section 5.5; Item (iii) Part (2)), particularly for a development such as that proposed – which is a tourist development with a finite structural lifespan before renewal is required.
- i) The structure plan is a guide for future planning. It is proposed that a scheme amendment process occur subsequent to structure planning. The Environmental Protection Authority confirmed (refer to letter from EPA) that it is prepared to consider the proposal as a scheme amendment under s.48A of the EP Act.
41. It is recommended that provisions are included to address comments relating to the environment, including:
- a) Referral to the Department of Environment and Energy is required, prior to development. The Department of the Environment and Energy is an Australian government department. The Department is responsible for matters including environment protection and conservation of biodiversity as well as energy policy.
  - b) The following management plans are to be implemented:

- Foreshore Management Plan. Note:
    - Development of a physical demarcation is to be accomplished on the boundary of the 'Development Buffer Precinct' to the wetland vegetation (McBI – *Melaleuca cuticularis* / *Banksia littoralis* Low woodland). A hard edge such as the proposed internal road is suitable for this purpose.
  - Urban Water Management Plan in accordance with Better Urban Water Management (WAPC, 2008). Note:
    - For storm-water, the use of amended soils would be required within infiltration swales.
    - Stormwater drainage to be accommodated on site and incorporate water sensitive urban water design elements to the satisfaction of the local government.
    - Roof based stormwater runoff being stored in rainwater tanks for reuse in toilets, washing facilities and swimming pool.
    - Identify and describe proposed measures to capture and treat the minor events; and
    - Outline future monitoring and management requirements.
  - Coastal Management Plan.
  - Remnant Vegetation management Plan (weeds, disease and revegetation).
  - Sand/Dust/Erosion Management Plan.
  - Accommodation Management Plan (noise).
  - Effluent Management Plan, subject to Department of Health Approval.
  - Bushfire Management Plan.
- c) Recommend including the following provisions to ensure appropriate management of effluent and ultimate protection of the environment:
- A 1.5m separation from the discharge point of the on-site sewage disposal system to the highest groundwater level is to be achieved;
  - The type of on-site sewerage system should be determined in response to the site and soil conditions, vulnerability of the receiving environment and nature of the proposal.
  - On-site sewage disposal is to be located at least 100m from the edge of the wetland (McBI) vegetation.
  - Approval is required for any on-site waste water treatment process with such proposals being in accordance with DOH publications.
- d) In-order to protect as much vegetation as possible, the width of internal access is to developed to a max 4m sealed width for main access and 4m gravel access for egress and is to include passing bays and turnaround areas.
- e) Internal access is to be designed to ensure movement of water.
- f) Prior to occupation of use, management and/or mitigation measures in response to findings from hydrological monitoring (2017-2018), are to be implemented to the satisfaction of the City of Albany. Surface water and groundwater data to be collected from Lake Vancouver and five existing piezometers and bores seasonally to determine and to manage any impacts.
- g) As an ongoing condition of development, the following coastal assessment is to be undertaken:
- Visual inspection and monitoring of the beach to identify any significant changes in the shoreline is to occur on an annual basis.
  - Every 5 years, aerial photographs are to be taken and the coastal vegetation line mapped to track the movement of the shoreline.
  - If the eroded shoreline came within a distance of approximately 36m of the resort site, survey cross sections should be completed every 1 to 2 years to determine the extent of change in shoreline profile.

- h) Prior to occupation of use, a Notification is to be placed on the Certificate of Title of Lot 660 La Perouse Road, Vancouver Beach advising the landowner and any prospective purchaser that:
  - The lot is within a Vulnerable Coastal Area
  - The land is subject to management in accordance with the Coastal Management Strategy;
  - The risk of future coastal change is borne completely by the landowner.
- i) A geotechnical report is implemented to guide earthworks/development.
- j) The Foreshore Management Plan is to ensure that the sensitive areas adjacent to the beach is protected and maintained in a natural state.

#### Bushfire

- 42. The subject structure plan area is located within a bushfire prone area. Development is therefore required to comply with State Planning Policy 3.7 and including a Bushfire Management Plan and Emergency Evacuation Plan. The Department of Fire and Emergency Services (DFES) originally stated that the proposal does not have adequate access. Because of non-compliant access, DFES recommended the development of a 'Refuge' area or building that complies with the following:
  - a) in close proximity to the development;
  - b) safe to travel to in a bushfire emergency;
  - c) appropriate for both the amount of people on site and the risk;
  - d) max BAL – 02 is to be achieved for Refuge Open Area;
  - e) max BAL – 10 is to be achieved for Refuge Building. Compliance with Design and Construction of Community Bushfire Refuges – Information Handbook (2014);
  - f) Safe access to refuge area/building.
- 43. Subsequent to DFES advice, a certified practitioner confirmed that it may be possible to develop a refuge building at the subject site, with a heat flux rating less than the min 10kW/m<sup>2</sup> (refer to attachment).
- 44. Consistent with State Planning Policy 3.7 and DFES comments, the following conditions are recommended:
  - a) Development of a refuge building, built to the appropriate standard and located in an area with a heat flux rating less than 10kW/m<sup>2</sup>; and
  - b) Development and implementation of a Bushfire Management Plan and Emergency Evacuation Plan, to the satisfaction of the City, in consultation with the DFES.
  - c) All proposed habitable buildings are to be located in areas subject to a BAL rating of BAL 29 or lower.
  - d) All residential buildings and, as far as is practicable, non-residential developments, are to incorporate the bushfire resistant construction requirements of the Building Code, including as appropriate the provisions of AS3959 Construction of Buildings in Bushfire Prone Areas (as amended), commensurate with the bushfire attack level (BAL) established for the relevant portion of the site.
  - e) Development is to incorporate an Asset Protection Zone that is to be managed to reduce bushfire hazard to an acceptable level.
  - f) Water being provided for dedicated firefighting purposes, in accordance with a Bushfire Management Plan developed in accordance with State Planning Policy 3.7.
  - g) As an ongoing condition, occupation of the site is to occur in accordance with an Emergency Evacuation Plan developed to the satisfaction of the City and in consultation with the Department of Fire and Emergency Services.

Building Scale/Design

45. The Local Structure Plan No.9 has been submitted to justify variations to scheme zoning and provisions. The structure plan is proposing:
  - a) 'Holiday Accommodation Precinct' comprising 10 holiday accommodation buildings totalling 51 units, a function centre, a café/dining/restaurant and manager's residence;
  - b) 'Development Buffer Precinct' comprising access, car parking and asset protection areas; and
  - c) 'Remnant Vegetation Precinct' comprising access and vegetation protection areas.
46. A number of submissions consider that the concept plan proposed is not 'low key' and will therefore impact on the amenity of the area.
47. City staff consider that the conceptual layout designed to inform the structure plan envisages a low profile development that blends to the natural environment. Low profile characteristics include:
  - a) buildings consisting of one and two storey (in-keeping with existing building developments at Goode Beach);
  - b) 6,000m<sup>2</sup> building footprint (similar size to three existing lots subdivided on La Perouse Court);
  - c) 2.1ha clearing footprint (2.6ha designated in scheme for 'Special Use' development at Lot 660);
  - d) Buildings clustered to the north of the site, away from existing housing and buffered by a hill and remnant vegetation;
  - e) Designing buildings to blend with the site;
  - f) Coastal and wetland setbacks in accordance with legislative requirements.
48. Environmental matters have been researched and management criteria proposed to address issues in accordance with legislative requirements. Management plans are proposed to protect vegetation, the foreshore, groundwater, Lake Vancouver and property and life from bushfire.
49. The proposed 51 units is comparatively smaller than other tourist accommodation complexes approved in popular tourist areas such as Bunker Bay (Dunsborough WA). The Bunker Bay resort consists of 150 units and functions as a high quality eco-tourism facility adjacent to the beach.
50. The proposed structure plan has been designed considerate of legislative requirements including:
  - a) Department of Health and Water Corporation servicing standards;
  - b) Reference to the Biodiversity Act, which seeks to protect threatened species;
  - c) The Western Australian Liveable Neighbourhoods document for traffic design;
  - d) The State Planning Policy 3.7 Planning in Bushfire Prone areas;
  - e) The State Coastal Planning Policy 2.6 – Coastal Planning;
  - f) The City's Local Planning Scheme No.1 for setbacks to wetlands;
  - g) The Draft Government Sewerage Policy 2016 for the appropriate setback to wetlands.
51. Majority of current scheme standards are being maintained, including:
  - a) Buildings clustered;
  - b) Minimising clearing;
  - c) Designing buildings to blend with the site;
  - d) Coastal setbacks;
  - e) Foreshore management plan;
  - f) Management of storm-water and effluent disposal to limit impact on the Lake Vancouver;
  - g) Potable water supply; and

- h) Implementing bushfire management criteria.
52. It is recommended that the following provisions are included to allay concerns relating to building design / scale of development:
- a) Lighting is kept low to the ground (bollard lighting).
  - b) Development is to be designed to blend with natural features within the area;
  - c) Incidental developments (e.g. bin storage areas) are appropriately screened;
  - d) Car parking is developed to the satisfaction of the City. Car parking shall be provided in accordance with the provisions of the Scheme, meaning an additional 20 car parking bays may be required. The scheme states the following standard for Hotel/Motel: 1 per employee (10 employees) + 1 per 3m<sup>2</sup> bar area (10m<sup>2</sup>) + 1 per four seats in dining area (40 seats) + 1 per bedroom (50 bedrooms) + 1 per 4m<sup>2</sup> other public areas (nil). May be possible to utilize internal access areas for additional car parking bays.
  - e) All development shall comply with the following performance criteria:
    - The Holiday Accommodation precinct is developed to provide a unique, high quality tourist resort designed to blend (not dominate) with its natural surrounds.
    - High quality built form is provided across the site that recognises the iconic location and significance of the area (beach, foreshore reserves and Lake Vancouver).
    - The privacy of beach users is not impacted via development overlooking the beach.
    - The development of public land (access links to beach) is integrated to establish a safe and environmentally sustainable outcome.
    - An effective, efficient, integrated and safe access network that prioritises drainage management considerate of Lake Vancouver ecosystem and protection of flora and fauna.
    - Developments incorporate sustainable technologies and design including best practice with regard to energy efficiency, water sensitive urban design and fire safety requirements.
    - A reputable manager being accommodated on-site to oversee operations.
    - Areas disturbed during development are to be stabilised and/or restored.

#### Access

53. It was commented that the development of a future resort will increase traffic, which will ultimately impact pedestrians.
54. An engineering report and traffic data developed by a qualified engineer and submitted as a component of the structure plan indicates that the existing road network has sufficient capacity to accommodate the proposed resort traffic.
55. It is recommended that the proposal is supported for the following reasons:
- a) Internal access roads are proposed along existing tracks;
  - b) The Engineering report and traffic data submitted as a component of the structure plan indicate that the existing road network has sufficient capacity to accommodate the proposed resort traffic. La Perouse Road is developed as an Access Street – Class C. The preferred volume of vehicles for this type of street is 3000vpd. The proposed development is expected to increase the traffic on La Perouse Road from approximately 50vpd to 150vpd, (50units x 3vpd).
  - c) At resort capacity, the increase in traffic is expected to result in an acceptable delay between vehicles of 4 minutes near the entrance to the development.
  - d) Traffic analysis undertaken for La Perouse Road (2012) confirms that approximately 75% of the vehicles travel less than 50km/h.



56. It is recommended that the following provisions are included to allay concerns relating to access:
- a) Development of a pedestrian path (1.5m wide) along La Perouse Road, to the satisfaction of the City;
  - b) Development of internal access considerate of surface and ground water flows. The width of internal access is developed to a max 4m sealed width for main access and 4m gravel access for egress and is to include passing bays and turnaround areas. Development of signage advising visitors of internal speed limit (max 20km/hr) and wildlife (e.g. Quenda);
  - c) Maximum two internal pedestrian access paths developed to the beach.

#### Character Goode Beach

57. It was commented that development of a resort would impact on the tranquillity of Goode Beach.
58. The City recognizes that the use of public areas, including beaches and tourist destinations within and adjacent to Goode Beach may increase, the result of a resort development. The City actively promotes tourism opportunities ('State Government Strategy for Tourism in Western Australia 2020' and 'Amazing South Coast Tourism Development Strategy') subject to management criteria being imposed.
59. It is considered that that the proposal can be supported for the following reasons:
- a) The number of persons visiting the resort (traveling on roads, paths and using the coastline and other public amenities) is expected to increase as a result of the proposed development. However, due to the remote location of Goode Beach and the limited period of tourism activity expected in the region (subject to season variation), the resort is not expected to run at capacity for lengthy periods and therefore any change to the Goode Beach character is expected to be marginal. The resort proposes to be self-contained, meaning tourists are inclined to stay within the resort area utilizing services, including a restaurant, function centre and pool.
  - b) The separation of the resort area from existing developed areas (150m) limits impact. Development is also somewhat buffered by a ridge and vegetation.
  - c) The conceptual layout developed to inform the structure plan envisages low profile buildings consisting of one and two storey development.
60. It is recommended that the following provisions are included to address concerns relating to Goode Beach character:
- a) The Holiday Accommodation precinct is developed to provide a unique, high quality tourist resort designed to blend (not dominate) with its natural surrounds.
  - b) Prior to occupation of use, an Accommodation Management Plan being implemented to the satisfaction of the City of Albany. The Accommodation Management Plan is to be implemented by an on-site caretaker and is to provide criteria for appropriate behaviour of tenants considerate of surrounding landholders and the environment (e.g. management of noise and rubbish).

#### Views/Visual/Noise/Lighting

61. It was commented that development will create incidental impacts such as noise and night time lighting and also impact on neighbouring landholder views.
62. City staff believe that incidental impacts can be restricted via development controls. In particular, staff believe that minimum finished floor level heights should be incorporated to limit the overall height of the proposed two storey development.
63. It is recommended that the structure plan is supported for the following reasons:

- a) Buildings are not expected to be visible from the beach due to the height limits and a sand dune located between the beach and development.
  - b) The majority of Goode Beach is located on higher ground, which overlooks the subject site. Panoramic views to the ocean are not expected to be impacted due to future conditional development.
  - c) The development site is proposed in an area of depression – relative to surrounds. A ridge located between the proposed development site and the foreshore (beach) is expected to screen development.
  - d) Future development is proposed to be developed sympathetic to the natural surroundings.
  - e) Surrounding vegetation and landscaping is expected to provide screening and visual enhancement to surrounds.
  - f) Finished floor levels and building heights (2 storey) are proposed to be limited to protect the privacy of beach users.
  - g) Development is proposed to be clustered in the northern precinct of the subject lot – away from existing development and in a hollow.
64. It is recommended that the following provisions are included to allay concerns relating to any offsite impacts:
- a) An Accommodation Management Plan (noise) being implemented via a caretaker on-site.
  - b) Finished floor levels for buildings not exceeding 3.5m AHD. Variation to a maximum 5m AHD may be considered under the following circumstances:
    - Justification to the satisfaction of the City, that cut and retaining to achieve a 3.5m AHD is necessary and that the retaining may compromise the amenity of development (retaining above a height of 2m is considered excessive); and
    - Justification to the satisfaction of the City, that two storey development does not visually dominate the landscape when viewed from the ocean and surrounding developed areas; and
    - Justification to the satisfaction of the City, that the development does not overlook the beach fronting the subject land.
  - c) A design outcome utilising clustering of buildings and colours and materials to demonstrate that buildings are sympathetic within the site (namely landform and vegetation);
  - d) Building height is limited as follows:
    - Unless otherwise approved by Council, the maximum building height to top of external wall (roof above) 6m.
    - Unless otherwise approved by Council, the maximum building height to top of external wall (concealed roof) 7m.
    - Unless otherwise approved by Council, the maximum building height to top of pitched roof 9m.
  - e) Screening of incidental developments (e.g. bin storage areas), using bushfire resistant materials.
  - f) Subdued night time lighting to the Goode Beach townsite (south west direction from subject site). Consider using low bollard lighting.

#### Aboriginal Heritage

65. It was commented that there is a strong probability that there are Aboriginal middens located where buildings and access roads are proposed (A 'midden' is an occupation site where Aboriginal people left the remains of their meals (e.g. shells)).
66. It was also commented that Vancouver Peninsula is well-documented in historical and contemporary sources as a place of high significance for Noongar cultural use and heritage (camping, hunting, quarrying, restricted ceremonies) and that a thorough archaeological

- survey of Lot 660 for Aboriginal artefacts, in conjunction with local Noongar people, is essential before any clearing and earthworks are undertaken.
67. The subject Lot 660 is not a registered site under the Aboriginal Heritage Act and therefore the proponent is not required under the Aboriginal Heritage Act to undertake an archaeological survey.
68. The *Department of Planning Lands and Heritage* (Department of Indigenous Affairs) commented that:  
*If there are burials in this area it is also likely that they could be exposed when any ground disturbing work occurs in the area requiring an immediate stop to works and reporting to the police (and then if they are determined to be of Aboriginal origin) and in-turn to our section. Should this occur the proponents should contact this office as soon as possible for further advice.*
69. It is recommended that the following notation is included on the structure plan:  
a) The Department of Aboriginal Affairs is to be notified should the construction phase reveal the presence of artefacts.

#### Consultation

70. It was commented that the City failed to suitably notify and consult with the community on the proposed structure plan.
71. The City undertook consultation in accordance with legislative requirements (*Planning and development (Local Planning Schemes) Regulations 2015 – Part 4 cl.18*).
72. The following consultation was undertaken:  
a) Giving notice of the proposed structure plan to all landholders/community members in Goode Beach, which included inviting community members to make comment during the 28 day advertising period;  
b) A sign was placed on-site to advertise the proposed structure plan.  
c) A copy of the structure plan was given to the Frenchman Bay Association and a copy was made available on the City's website and at the City's offices.  
d) The City included a summary of the structure plan to community members ('Conversation') plan;  
e) The City facilitated a site meeting and conversation between consultants, City of Albany staff and councillors – to benefit the community members.  
f) The City facilitated meetings to show a three dimensional model of the subject site, between Councillors and the Frenchman Bay Association.  
g) The City facilitated a presentation to Councillors on-behalf of the Frenchman Bay Association.

#### The Structure Plan Process

73. It was commented that the structure planning process is being misused to secure approval for development.
74. The City sought clarification on the matter from the Department of Planning, Lands and Heritage. It was confirmed by the Department of Planning, Lands and Heritage that the structure planning process is in accordance with the *Planning and Development (Local Planning Schemes) Regulations 2015*.
75. As the structure plan process has been confirmed as the appropriate approach, it is considered that the structure plan can be supported for the following reasons:  
a) In accordance with the City's *Local Planning Scheme No.1*, development may be considered on the land zoned 'Special Use' and also on the land reserved for 'Parks

and Recreation’. The reserve purpose, for the area around the Lake Vancouver, is ‘Class C – Public Recreation’.

- b) The structure plan is proposed to guide the scheme amendment process. The landholder proposes to change the ‘Special Use’ zone boundary and ‘Parks and Recreation’ reservation boundary. As defined in the *Planning and Development (Local Planning Schemes) Regulations 2015* (Part 4 cl14); *Structure Plan means a plan for the coordination of future subdivision and zoning of an area of land.*
- c) The City has followed procedural requirements as stipulated in the *Planning and Development (Local Planning Schemes) Regulations 2015* to deal with the Structure Plan submitted.

76. It is recommend the following provision be included:

- a) The structure plan (2018) proposes variations to current *Local Planning Scheme No.1* ‘Special Use’ zone and ‘Parks and Recreation’ reserve boundaries and scheme provisions. The *Local Planning Scheme No.1* is to be amended prior to supporting development proposed in accordance with the Structure Plan (2018), endorsed by the Western Australian Planning Commission.
- b)
  - I. The planning scheme amendment process requires the Local Government to refer to the EPA a written notice of the proposal to amend a scheme; and such written information about the scheme or amendment as is sufficient to enable the EPA to comply with section 48A of the *Environmental Protection Act 1986* (EP Act). Schemes and scheme amendments can only be referred to the EPA by the responsible authority. Upon receipt of a scheme or scheme amendment and such written information about the scheme or scheme amendment which enables the EPA to comply with section 48A of the EP Act, the EPA will decide whether the referred scheme or scheme amendment:
    - should not be assessed (advice and recommendations may be provided); or
    - should be assessed; or
    - is incapable of being made environmentally acceptable.
  - II. Prior to application for an amendment to the scheme, referral is to be made to the Department of Environment and Energy to determine if development constitutes a controlled action under the *Environment Protection and Biodiversity Conservation Act 1999*.

#### Previous Decisions

77. It was commented that the structure plan has failed to consider previous decisions pertaining to the subject land.

78. The Minister for Environment (1993 EPA Statement 319) previously concluded that a proposal to subdivide the land into 15 lots is environmentally acceptable subject to:

- a) Protection of Lake Vancouver and provision of an adequate buffer of native vegetation.
  - Lake Vancouver has now been incorporated into a Crown Reserve and is managed by the City of Albany.
- b) Stormwater management.
  - It is intended by the structure plan that an urban water management plan will be developed, consistent with Better Urban Water Management principles (WAPC, 2008) which will comply with the Ministerial Condition. Urban water management plans consider the treatment, storage and conveyance of 15mm events, 20% annual exceedance probability (AEP) events and 1% AEP events (respectively). It is proposed that there will be no direct drainage to either Lake Vancouver or Frenchman Bay and treatments such as soil amendment will be considered. The Department of Water and Environmental Regulation commented that, *the proposed methodology for dealing with the stormwater generated on site is considered acceptable.*

- c) Groundwater use not being permitted.
- Groundwater extraction is not proposed by the structure plan.
- d) The setback of the development which includes road access, driveways and residences, from the coast shall take into account land capability and suitability.
- The structure plan has taken into account the State Planning Policy 2.6 State Coastal Planning with setbacks being agreed with the Department of Planning, Lands and Heritage. Land capability (including management of erosion risk during construction) has also been considered. Access roads are proposed to be built keeping in mind environmental characteristics and limitations. See schedule of proposed provisions.
- e) A Health Department of Western Australia approved alternative domestic wastewater treatment system, as proposed, with adequate phosphorus retention capacity should be installed.
- The current proposal complies with the 2016 Draft Government Sewerage Policy. It is proposed to install a package treatment plant that provides secondary treatment and removes nutrients (to 1 mg/L of phosphorus and 10 mg/L of nitrogen) as per 2016 Draft Government Sewerage Policy. The unit will also remove pathogens. Irrigation of the treated waste water will be set back from Lake Vancouver and spread over a minimum area of 4000 m<sup>2</sup> (in compliance with Schedule 3: Site Requirements for On-site Sewerage Disposal Systems in 2016 Draft Government Sewerage Policy and Department of Health (2015) Supplement to Regulation 29 and Schedule 9 – Wastewater System Loading Rates).
- f) Indigenous vegetation shall be retained on all areas of the site that are not required to be cleared for building envelopes, fences, firebreaks, access and servicing. Areas cleared of indigenous vegetation shall be rehabilitated with indigenous species in accordance with guidelines developed by the Shire of Albany on advice from the Environmental Protection Authority. Satisfactory arrangements shall be made with the Shire of Albany to ensure the on-going maintenance of both the existing vegetation and the revegetation established; by the developer outside the areas cleared for building envelopes, fences, firebreaks, access and servicing.
- Other than the 2.1 ha proposed to be cleared for the current development, no other vegetation will be cleared. The remaining vegetation will be retained and managed to reduce risk of weeds and dieback. Any rehabilitation will use local native species (noting that landscaping within the development foot print will use a combination of native and non-native species). These objectives will be achieved through preparation of a vegetation protection plan/construction management plan at the development approval stage.

### Soils

79. A number of submissions commented that:
- a) Poorly compactable soils are unsuitable for roadworks or building foundations; and
  - b) Importing suitable soil carries the risk of introducing phytophthora infection to the Lake Vancouver wetlands and adjacent Reserve.
80. To address these concerns, it is recommended that the structure plan is supported for the following reasons:
- a) Development is required to occur in accordance with a Geotechnical assessment. The geotechnical assessment is a standard procedure undertaken by a qualified engineer. The geotechnical assessment classifies soil structure and identifies necessary

- development measures, which may include transporting soil that's suitable for foundation.
- b) In consultation with an environmental professional it is believed that, *Phytophthora* is likely to be present in all soils and to be dominant in clay soils (not so much sandy – building soils) that hold water.
81. It is recommended that the following provisions are included to allay concerns relating to soils:
- a) Development is to occur in accordance with a Geotechnical report to the satisfaction of the City.
- b) Prior to commencement of earthworks, a sand/dust/erosion management plan is to be developed and implemented to the satisfaction of the City.
- c) Areas disturbed during development are to be stabilised and/or restored having regard to:
- Cleared shrubs and trees should be chipped and used for mulching and not removed;
  - Topsoil should be re-used;
  - The duration of sand stockpiling should be minimised;
  - Vegetation cover should be established as quickly as possible;
  - Land should be cleared and rehabilitated in sequence, not simultaneously;
- d) The site should be monitored during and after construction, and any eroding areas repaired.

#### Unexploded ordnance

82. It was commented that there may be unexploded ordnance on the land.
83. Historical research has revealed that during the past 100 years, former elements of the Australian Defence Forces may have conducted training and/or operational activities within or close to the area of the proposed development. It is possible that as a result of these activities, the subject area may contain unexploded ordnance (UXO). Whilst it is considered that the possible risk from UXO on the land is minimal, an absolute guarantee that the area is free from UXO cannot be given.
84. Having consulted with the Department of Fire and Emergency Services on the matter of UXO, the City recommends including the following as a notation to the structure plan:
- a) Should, during development works, or at any other time, a form or suspected form of UXO be located, the following process should be initiated:
- i. do not disturb the site of the known or suspected UXO;
  - ii. without disturbing the immediate vicinity, clearly mark the site of the UXO;
  - iii. notify Police of the circumstances/situation as quickly as possible; and
  - iv. maintain a presence near the site until advised to the contrary by a member of the WA Police Service or Defence Forces.

#### **GOVERNMENT & PUBLIC CONSULTATION**

85. Local Structure Plan No.9 was advertised in accordance with the *Planning and Development (Local Planning Schemes) Regulations 2015*. Structure Plans require advertising in accordance with Part 4, cl.18 of the *Planning and Development (Local Planning Schemes) Regulations 2015* (Reg's).
86. The City advertised the structure plan in accordance with the *Planning and Development (Local Planning Schemes) Regulations 2015* as follows:
- a) By giving notice of the proposed structure plan to all landholders in Goode Beach, which included inviting landholders to make comment – 28 day advertising period.
- The City provided a summary of the structure plan to landholders ('Conversation Plan'); and

- Facilitated a site meeting and conversation between consultants, City of Albany staff and Councillors – to benefit the landholders.
  - b) By placing a sign on-site.
  - c) By making a copy of the structure plan available on the City's website and as hard copy to the Frenchman Bay association and at the City's offices.
87. Submissions were received from government agencies and members of the public. Submissions have been provided to the Councillors as an original and as summarised in the attached Schedule of Submissions.
88. Commentary on the submissions has been provided in this report item and in the attached Schedule of Submissions.

### STATUTORY IMPLICATIONS

89. Local Structure Plans undergo a statutory process in accordance with Schedule 2, Part 4 of the *Planning and Development (Local Planning Schemes) Regulations 2015*.
90. Schedule 2, Part 4, clause 19 requires the local government to consider the submissions made within the period specified in the notice advertising the structure plan.
91. Schedule 2, Part 4, clause 20 requires the local government to prepare a report to the Western Australian Planning Commission, including a recommendation on whether the proposed structure plan should be approved by the Commission.
92. Voting requirement for this item is **SIMPLE MAJORITY**
93. Following endorsement of the structure plan, a scheme amendment proposal to modify zone and reserve boundaries and to introduce additional provisions into the scheme, may be undertaken to reflect structure plan requirements.

### POLICY IMPLICATIONS

94. The following policies are applicable and have been considered for the assessment of the structure plan:
- a) *Draft Government Sewerage Policy*
  - b) *State Planning Policy 2.6 Coastal Planning*
  - c) *State Planning Policy No. 2.9 Water Resources*
  - d) *State Planning Policy 3.7 Planning in Bushfire Prone Areas*
  - e) *Liveable Neighbourhoods*.

### RISK IDENTIFICATION & MITIGATION

95. The risk identification and categorisation relies on the City's Enterprise Risk & Opportunity Management Framework.

Risk	Likelihood	Consequence	Risk Analysis	Mitigation
<p><b>Reputation.</b></p> <p><b>Risk:</b> The proposal may not be accepted by the Western Australian Planning Commission or the Minister for Planning.</p>	Possible	Minor	Medium	If not supported by the WAPC or Minister, the amendment will not be progressed and the City will advise the proponent that they may submit a modified proposal.
<p><b>Opportunity:</b> To expand the tourism opportunities for the Goode Beach area</p>				

### **FINANCIAL IMPLICATIONS**

96. If the local government does not provide a recommendation and report on the structure plan, to the Commission, the Commission may take reasonable steps to obtain the services or information on its own behalf. All costs incurred by the Commission may, with the approval of the Minister, be recovered from the local government as a debt due to the Commission.

### **LEGAL IMPLICATIONS**

97. There are no legal implications directly relating to this item.

### **ENVIRONMENTAL CONSIDERATIONS**

98. The structure plan was referred to the Department of Biodiversity, Conservation and Attractions, the Department of Water, Environment and Regulation and the Department of Health.

#### Department of Biodiversity, Conservation and Attractions

99. The Department of Biodiversity, Conservation and Attractions recommended no direct discharge of stormwater into Lake Vancouver and targeted surveys for threatened flora and fauna.
100. In response to the Department of Biodiversity and Attractions comment, it is recommended that:
- a) Stormwater management measures are implemented in accordance with an Urban Water Management Plan, to the satisfaction of the City; and
  - b) Referral to the Environmental Protection Authority and the Department of Environment and Energy is required to determine if clearing of vegetation constitutes a controlled action in accordance with the EPA Act and the Biodiversity Act. It needs to be understood that the consultant working on behalf of the structure plan undertook extensive environmental research including:
    - I. The classification of vegetation on the subject land by comparison to a mosaic of the Albany Regional Vegetation Survey Units (Peppermint low forest, coastal heath and coastal limestone heath) undertaken for land to the north of the subject site.
    - II. It was determined by the consultant that the vegetation units located in the subject area are well represented in the Albany region.
    - III. The environmental consultant also undertook a targeted survey of the area proposed to be cleared for the Threatened flora species, *Calectasia cyanea* (Blue Tinsel Lily). The species was not detected and it was also noted that the habitat surveyed (*Agonis flexuosa*/ *Adenanthos sericeus* Closed Scrub) was not likely to host the species.

#### Department of Water and Environmental Regulation

101. The Department of Water and Environmental Regulation who are not in support of the proposal recommended protection of wetland vegetation, protection of water quality, groundwater testing, setback to wetland vegetation and management criteria to protect reserve areas.
102. In accordance with the agency comments and the draft Government Sewerage Policy (2016), it is recommended that:
- a) Wetland vegetation surrounding the Lake Vancouver is protected.
  - b) A minimum 100m buffer is required from the edge of the open water of Lake Vancouver to future development.
  - c) A minimum 100m buffer is required from the edge of the wetland vegetation to effluent disposal.



- d) Management measures being implemented in accordance with a Foreshore Management Plan, Urban Water Management Plan and Remnant Vegetation Management Plan, to the satisfaction of the City, in consultation with the Department of Water, Environment and Regulation and the Department of Biodiversity, Conservation and Attractions.
- e) Ongoing groundwater testing in consultation with the Department of Water, Environment and Regulation. Note; the structure plan has considered Hydrological data recorded for the site (Rockwater) and more recent groundwater data collected post November 2016. A groundwater report developed for the subject area (Groundwater Aspects of Residential Development, Alan Tingay and Associates 1992) concluded that a buffer zone of 60 m between residential development and Lake Vancouver is suitable. The report stated that this will provide opportunity for nutrient extraction by vegetation, and add to the protection of the lake water.
- f) Effluent being managed to the satisfaction of the Department of Health.

Department of Health

103. A provision is recommended to address the Department of Health comment, which included:

*Separate approval is required for any on-site waste water treatment process with such proposals being in accordance with DOH publications.*

Environmental Protection Authority

104. The City was advised by the Department of Water and Environmental Regulation that Ministerial Statement 319 related to the Site. The Ministerial Statement was published in 1993 and supported the rezoning and subdivision of the land as it was then known for Special Residential Development.

105. It was deemed that, because the proposal contained within the Structure Plan differed from the proposal contemplated in the Ministerial Statement 319, a request should be submitted to the EPA Chairman to amend the Ministerial Statement pursuant to section 45C of the *Environmental Protection Act 1986* (EP Act). Section 45C of the EP Act allows a proposal to be amended by the Minister after a ministerial statement has been issued without the entire proposal having to be reassessed by the EPA.

106. The proponent followed this advice and submitted a section 45C request accordingly. The proponent sought and received approval from the Commission for an extension of time for structure plan assessment.

107. In response to the section 45C request, the EPA determined that, because the structure plan differs from the original special residential proposal, the structure plan constitutes a new proposal. Subsequently, the EPA invited the proponent to withdraw the section 45C. The EPA recommended that it would be more appropriate to assess the current proposal in the statutory context of a scheme amendment referral.

108. It is recommended that the structure plan is endorsed for the following reasons:

- a) The EPA considers it more appropriate to assess the current proposal in the statutory context of a scheme amendment referral, which follows the structure planning process. If the Structure Plan is approved, the EPA will have a better opportunity and power to provide a fully informed comment in respect of the proposal at the amendment stage.
- b) The City's Local Planning Scheme is an assessed scheme for the purposes of the Environmental Protection Act, meaning that it has been duly considered by the Environmental Protection Authority as part of its approval process. As part of the Environmental Protection Authority's assessment of the scheme, no environmental conditions were imposed on the subject Lot 660.

### ALTERNATE OPTIONS

109. Council may consider alternate options in relation to the structure plan, including;
- a) Recommend, with justification, that the Western Australian Planning Commission not approve the proposed structure plan; or
  - b) Recommend that the Western Australian Planning Commission approve the proposed structure plan subject to additional modifications and or provisions.
110. The Local Government is required to make a recommendation on the proposed structure plan, to the Commission, by the 27 July 2018. Alternatively, Council may resolve to request an extension of time to:
- a) Consider submissions;
  - b) Request further information; and
  - c) Advertise any modifications proposed to the structure plan to address issues raised in submissions.

### CONCLUSION

111. In accordance with the City's *Local Planning Scheme No.1*, tourist development may be considered at the subject Lot 660.
112. Local Structure Plan No.9 is proposing changes to the City's *Local Planning Scheme No.1*, including:
- A 'Holiday Accommodation Precinct' comprising:
    - Maximum ten (10) two storey holiday accommodation buildings comprising maximum total 51 units (approximately 5 units each);
    - Maximum 120 persons at capacity;
    - Function centre also developed as a refuge (bushfire) building;
    - Café/dining/restaurant; and
    - Manager's residence.
  - A 'Development Buffer Precinct' comprising:
    - Access, car parking, waste treatment, pool and asset (bushfire) protection.
  - A 'Remnant Vegetation Precinct', comprising:
    - Vegetation protection; and
    - Access.
113. The 'Holiday Accommodation Precinct' is proposed to be developed to provide a unique, high quality tourist resort designed to integrate with its natural surrounds and not to impact on surrounding landholders or beach users.
114. Stringent environmental protection measures are proposed across the site to recognise the iconic location and significance of the area (beach, foreshore reserves and Lake Vancouver).
115. A reputable manager is proposed to be accommodated on-site to oversee operations.
116. The Environmental Protection Authority was consulted on environmental grounds and it was determined that referral should be made to the Environmental Protection Authority at the scheme amendment stage. The structure plan will not actually have any practical effect until the scheme amendment is finalised at which time referral to the EPA is required.
117. The structure plan has been developed in accordance with the *Planning and Development Regulations 2015*.
118. The proponent and the City have undergone significant stakeholder engagement with various relevant government agencies and landholders in respect of the Structure Plan.

119. There is no further outstanding information required to finalise the assessment of the Structure Plan and should proceed for formal consideration by the Western Australian Planning Commission.
120. Council is now asked to consider comments received and is requested to recommend that the Commission supports the Local Structure Plan No.9, subject to provisions, including:
- a) The City's *Local Planning Scheme No.1* is amended prior to development, in accordance with the Structure Plan No.9;
  - b) At the scheme amendment stage, the Structure Plan is referred to the Environmental Protection Authority and the Department of Environment and Energy to determine if development constitutes a controlled action under the EPA Act and EPBC Act; and
  - c) Development is limited to the following, as depicted on the structure plan:
    - 'Holiday Accommodation Precinct' comprising:
      - Maximum ten (10) two storey holiday accommodation buildings comprising maximum total 51 units (approximately 5 units each);
      - Maximum 120 persons at capacity;
      - Function centre also developed as a refuge (bushfire) building;
      - Café/dining/restaurant; and
      - Manager's residence.
    - 'Development Buffer Precinct' comprising:
      - Access, car parking, waste treatment, pool and asset (bushfire) protection.
    - 'Remnant Vegetation Precinct', comprising:
      - Vegetation protection; and
      - Access.

Please refer to the 'Schedule of Provisions' for a full list of proposed provisions.

<b>Consulted References</b>	:	<ol style="list-style-type: none"> <li>1. <i>State Planning Policy 3.7 Planning in Bushfire Prone Areas.</i></li> <li>2. <i>Draft Government Sewerage Policy.</i></li> <li>3. <i>Local Planning Strategy (2010).</i></li> <li>4. <i>Local Planning Strategy (Draft 2018).</i></li> <li>5. <i>Local Planning Scheme No.1.</i></li> <li>6. <i>City of Albany Strategic Community Plan 2023.</i></li> <li>7. <i>State Planning Policy No. 2.9 Water Resources (2006).</i></li> <li>8. <i>Liveable Neighbourhoods (2009).</i></li> <li>9. <i>EPA Ministerial Bulletin and Statement (1993).</i></li> <li>10. <i>1987 Resort approval.</i></li> <li>11. <i>Amendment No 143 – Minister Approval letter.</i></li> <li>12. <i>Amazing South Coast – Project Sheet.</i></li> <li>13. <i>State Government Strategy for Tourism in Western Australia 2020.</i></li> </ol>
<b>File Number (Name of Ward)</b>	:	LSP9 (Vancouver Ward)
<b>Previous Reference</b>	:	Nil

**DIS105: FURTHER INFORMATION ON LOCAL STRUCTURE PLAN  
NO.12 – LOT 3 TOLL PLACE, ALBANY.**

<b>Land Description</b>	: Lot 3 Toll Place, Albany
<b>Proponent</b>	: Harley Dykstra
<b>Business Entity Name</b>	: Foreshore Investments Albany Pty Ltd ( P Lionetti)
<b>Attachments</b>	: Local Structure Plan No.12 (Includes Acoustic Assessment) Schedule of Submissions and Recommendations <i>Albany Waterfront - Memorandum of Agreement (2007)</i>
<b>Supplementary Information &amp; Councillor Workstation</b>	: Copy of Submissions Transcore Traffic Assessment Report
<b>Report Prepared By</b>	: Senior Planning officer – Strategic Planning (A Nicoll)
<b>Responsible Officers:</b>	: Executive Director Development Services (P Camins)

**STRATEGIC IMPLICATIONS**

1. In 2011, a structure plan was endorsed to guide land use and development at the Albany Waterfront.
2. This application proposes to modify this structure plan to guide development of a hotel, car parking and permanent accommodation in the form of multiple dwellings, at Lot 3 Toll Place, Albany Waterfront.
3. In making a decision on the proposed modified structure plan, the Council is obliged to draw conclusion from its adopted *Albany Local Planning Strategy 2010, Community Strategic Plan – Albany 2030* and *Albany Waterfront – Memorandum of Agreement (2007)*.
4. The structure plan complies with the Albany Community Strategic Plan.
  - The *Albany Community Strategic Plan – Albany 2030* recommends a proactive planning service that supports sustainable growth while reflecting our local character and heritage (Community Priority: 5.1.2).
5. The structure plan does not principally comply with the *Albany Local Planning Strategy 2010* and *Albany Waterfront – Memorandum of Agreement (2007)*.
  - The *Albany Local Planning Strategy (2010)* seeks to encourage the development of the Structure Plan area for 'Tourist Accommodation'.
  - The *Albany Waterfront - Memorandum of Agreement (2007)* seeks to prohibit permanent residential activity at the subject land.
6. The vision of the *Albany Waterfront - Memorandum of Agreement (2007)* is to:
  - *Create a sustainable, attractive and exciting world-class waterfront precinct for the Albany community, the Great Southern Region, and visitors to the region.*
7. Various parcels of land at the Albany Waterfront remain vacant and awaiting investment. The owner of Lot 3 Toll Place is prepared to invest in the development of a Hotel, however also desires to construct permanent accommodation. The proponent proposes that the permanent accommodation is required to support the year round operation of other land uses such as shops, offices and restaurants.
8. A variation to the City's Local Planning Strategy and Memorandum of Agreement may be considered in light of the *State Planning Bulletin No. 83 – Planning for Tourism*.
  - The *State Planning Bulletin No. 83 – Planning for Tourism* indicates that local governments may set a limit to residential development as part of a tourist site within their local planning strategy.

**Maps and Diagrams:** Subject Site – Lot 3 Toll Place, Albany.



**In Brief:**

- This item has been prepared to seek Council support in addressing the noise related aspects of the structure plan prior to its full consideration. All items will be subject to discussion in the full item for the Structure Plan. The scope of this item is limited to addressing the required noise assessment.
- A modified structure plan has been prepared to facilitate modifications to the 'Accommodation' precinct (Lot 3 Toll Place), located at the Albany Waterfront.
- Modifications include:
  - Introducing permanent accommodation;
  - Reduced setback to Princess Royal Drive; and
  - Allowing basement parking.
- An 'Acoustic concept design document' (desktop review) was completed for the structure plan, to determine 'general' internal noise criteria.
- Southern Ports commented that the 'acoustic concept design document', is not detailed enough to recommend the suitability of permanent residential and/or a specific noise control package for the proposed development.
- In light of comment received from Southern Ports, city staff requested that the proponent undertake a 'detailed acoustic assessment'.
- Instead of undertaking a detailed assessment, the proponent recommended that the following provision be included, which requires a detailed acoustic assessment at the development stage:
  - *A detailed acoustic assessment is required to support a Development Application detailing the design, construction measures and acoustic treatments incorporated to*

*adequately attenuate external noise levels to ensure night time noise levels within all Multiple Dwellings located within the Accommodation Precinct do not exceed 55dB (LA(Max)).*

- Although this provision may address the concerns raised to some extent it is not enough to deal with the additional information/updates required and to provide certainty that the mitigation is indeed feasible, achievable or something that is considered appropriate e.g. it could include a 10m high noise wall.
- The following additional information is therefore still required;
  - An updated noise contour plan that includes data provided by Southern Ports and their consultants; and
  - an appropriate noise package detailing attenuation measures to ensure night time noise levels within all Multiple Dwellings located within the Accommodation Precinct do not exceed 55dB (LA(Max)).
- Council is requested to agree that prior to making a recommendation to WAPC, the City of Albany seek input from the Southern Ports, the Department of Planning, Lands and Heritage and the Department of Water and Environmental Regulation on the above proposed provision.

**8.10pm** Councillor Terry declared a Financial Interest in this item and left the Chambers. Councillor Terry was not present during the discussion and vote for this item. Councillor Terry returned to the Chamber at **8.30pm**

#### RECOMMENDATION

##### **DIS105: COMMITTEE RECOMMENDATION**

**MOVED: COUNCILLOR SMITH**

**SECONDED: COUNCILLOR STOCKS**

**THAT the Responsible Officer Recommendation be ADOPTED.**

**CARRIED: 9-1**

Against the motion – Mayor Wellington

##### DIS105: RESPONSIBLE OFFICER RECOMMENDATION

THAT Council:

1. NOTE that WAPC has agreed to an extension of time to submit a recommendation on the proposed Structure Plan.
2. SUPPORT City of Albany staff seeking the following information from the applicant:
  - Updated noise contour plan that includes data provided by Southern Ports and their consultants ;and
  - The appropriate noise package to adequately attenuate external noise levels to ensure night time noise levels within all Multiple Dwellings located within the Accommodation Precinct do not exceed 55dB (LA<sub>(Max)</sub>)).
3. SUPPORT City of Albany staff seeking further input from the Southern Ports, the Department of Planning, Lands and Heritage and the Department of Water and Environmental Regulation on the below proposed provision:

*A detailed acoustic assessment is required to support a Development Application detailing the design, construction measures and acoustic treatments incorporated to adequately*

*attenuate external noise levels to ensure night time noise levels within all Multiple Dwellings located within the Accommodation Precinct do not exceed 55dB (LA<sub>(Max)</sub>).*

4. NOTE that after consultation, a recommendation regarding the structure plan will be made to Council.

## BACKGROUND

9. The subject land comprises Lot 3 Toll Place Albany, which is zoned 'Special Use' area No.15.
10. Lot 3 Toll Place is located to the east of the Albany Entertainment Centre.
11. The 'Albany Waterfront Structure Plan (2011)' applies to the subject land to provide a detailed framework for land use and development.
12. Structure planning of the waterfront is broken up into precincts. Lot 3 Toll Place is defined as being part of the 'Accommodation Precinct'.
13. The 2011 structure plan states:  
*Accommodation Precinct [2] is to the eastern side of the Toll Place spine comprising a hotel and short stay/serviced apartments...24.1 No permanent residential developments are permitted in the Albany Waterfront...4.6 No basement or part basement parking is permitted...2.1 All buildings will be set back a minimum of 25m from the Princess Royal Drive road reserve boundary.*
14. The *Albany Waterfront - Memorandum of Agreement (2007)* between the City of Albany and the State of Western Australia also applies to subject land. The agreement states:  
**5. COMMITMENTS TO THE COMMUNITY**  
*The State of Western Australia and the City of Albany are committed to the following underlying principles regarding the development and ongoing operation of the Albany Waterfront...Prohibition of permanent residential activity.*
15. The proponent of Lot 3 Toll Place submitted a MODIFIED structure plan proposing a series of land use and urban structure modifications, pertaining to the Accommodation Precinct of the approved *Albany Waterfront Structure Plan (2011)*.
16. The proponent has specified that the modifications will:  
a) Provide increased flexibility with the design and siting of development and land use;  
b) Serve as a catalyst to promote further development within the Albany Waterfront area; and  
c) Contribute towards providing the critical mass required to support the year round operation of other land uses such as shops, offices and restaurants.
17. Seven modifications are proposed to the *Albany Waterfront Structure Plan (2011)*. It should be noted that there are no changes to existing building height or scale standards. Furthermore, the primary land use for the site will remain for Tourist purposes, with measures proposed to permit a limited amount of permanent residential accommodation. It should also be noted that endorsement of the structure plan is a catalyst for the Department of Planning, Lands and Heritage to make a recommendation to the Minister for Planning on changing the *Albany Waterfront - Memorandum of Agreement (2007)*.
18. The modifications proposed to the structure plan are summarised in the below table:

<b>Structure Planning</b>		
	<b>Existing Provisions</b>	<b>Proposed Provisions</b>
1.	No permanent residential developments are permitted in the Albany Waterfront (c24.1).	1. <i>No permanent residential development is permitted in the Albany Waterfront Structure Plan Area, with the exception of Multiple Dwellings being a discretionary land use within the Accommodation Precinct. Multiple Dwellings are not permitted on the ground level fronting the Waterfront Promenade.</i>
2.	No provision for prioritising the location of tourism development.	2. (A) <i>The scale of any residential development is to complement the tourism component and priority is to be given to locating the tourism component(s) on those areas of the site providing the highest tourism amenity.</i> 2. (B) <i>Any staging of development is to occur so that the tourism development and provision of facilities occurs prior to, or concurrently with, any residential development.</i> 2. (C) <i>Multiple dwelling development shall not exceed a Gross Floor Area of 6,800m<sup>2</sup>.</i>
3.	Building footprints shown on Structure Plan.	3. <i>Revising the building footprints to the Accommodation Precinct to provide improved pedestrian connectivity through the Waterfront Area via revised pedestrian access points, and enable increased flexibility of building design and siting, while maintaining key principles of the Design Guidelines.</i>
4.	No basement or part basement parking is permitted (c4.6).	4. <i>Basement parking, or part basement parking, to protrude a maximum 1.5m above the natural ground level of the Accommodation Precinct, excluding the active ground floor interface with the Waterside Promenade.</i>
5.	All buildings will be setback a minimum of 25m from the Princess Royal Drive road reserve boundary (c2.1).	5. <i>Revise the building setback to Princess Royal Drive from 25m to 19m within the Accommodation Precinct to allow increased flexibility with design and siting of buildings.</i>
6.	Nil	6. <i>All Holiday Accommodation and Multiple Dwellings located within the Accommodation Precinct are to incorporate Quiet House Design Package B.</i>
7.	Nil	7. (A) <i>Prior to development commencing a Management Statement is to be prepared in consultation with the City of Albany to ensure all Holiday Accommodation units will be let out for tourism purposes, preferably by an on-site letting agent (manager).</i> 7. (B) <i>Prior to development commencing a Management Statement is to be prepared in consultation with the City of Albany to address amenity and mitigation measures associated with the Port and Entertainment Precinct.</i> 7. (C) <i>The Local Government may consider the use of a Section 70A notification being placed on the Title(s) to advise prospective purchasers of potential impacts that may arise from activities associated with the Albany Waterfront or Port of Albany.</i>



19. An 'Acoustic concept design document' (desktop review) was completed for the structure plan, to determine 'general' internal noise criteria. The assessment determined that development should adequately attenuate external noise in accordance with the *State Planning Policy 5.4 – Road and Rail Transport Noise and Freight Considerations in Land Use Planning*.
20. The City of Albany advertised the proposed modified Local Structure Plan No.12 in accordance with the *Planning and Development (Local Planning Schemes) Regulations 2015*.
21. At the close of advertising, the City of Albany received nineteen (19) submissions commenting on the proposed structure plan.
22. The Western Australian Planning Commission has granted an extension of time, whilst the City awaits comment from the Department of Water and Environmental Regulation.

## DISCUSSION

23. The proposed modified Structure Plan supports permanent residential accommodation in the form of multiple dwellings. The Structure Plan argues that permanent residential accommodation will contribute towards providing the critical mass required to support the year round operation of other land uses such as shops, offices and restaurants.
24. The Structure Plan is proposing measures to ensure that the function of the road users and Port remain. Proposed measures include:
  - a) That development implements a Management Statement to ensure Holiday Accommodation units address amenity and mitigation measures associated with activities at the Port and Entertainment Precinct;
  - b) The use of a Section 70A notification being placed on the Title(s) to advise prospective purchasers of potential impacts that may arise from activities associated with the Albany Waterfront or Port of Albany; and
  - c) All holiday accommodation and multiple dwellings located within the accommodation precinct incorporate design measures to limit noise.
25. This item has been prepared to seek Council direction in addressing the noise related aspects of the Structure Plan prior to its full consideration. Commentary on the full submissions will be provided in the full report item and attached as a Schedule of Submissions.
26. An 'Acoustic concept design document' (desktop review) was undertaken as part of the proposal to determine impacts of noise and vibration. The assessment established that:
  - a) vibration mitigation measures are not deemed necessary; and
  - b) *'Measured noise levels are generally in good agreement with noise levels predictions'*.
27. The proposed Structure Plan includes provisions to address noise issues, including;
  - a) Provision for the application of a Section 70A notification to be placed on all title(s) to advise prospective purchasers of potential impacts that may arise from activities associated with the Albany Waterfront or Port of Albany; and
  - b) All holiday accommodation and multiple dwellings located within the accommodation precinct are to incorporate design measures (Package B as defined by *State Planning Policy 5.4 – Road and Rail Transport Noise and Freight Considerations in Land Use Planning*) to limit noise.
28. Southern Ports believe that a more detailed acoustic assessment should be undertaken to consider maximum noise measurements,  $LA_{max}$  (e.g. night time noise and the sound of a train horn). Southern Ports argues that maximum noise readings provide a more accurate reflection of the short-term noise impact to residents, especially regarding sleep disturbance at night. Their submission states that:

- a) *The use of the  $LA_{eq}$  metric (as specified by SPP 5.4 Road and Rail Noise) does not adequately reflect the level of noise disturbance generated by freight rail due to the low volume of movements on the network, resulting in reduced urban amenity for noise-sensitive land uses, such as permanent residential dwellings.*
29. Southern Ports also stated that:
- *SPP 5.4 does not require noise sensitive development to adequately address noise generated by low volume road and rail operations; and*
  - *The acoustic report provided in support of the proposed modifications is not compliant with SPP 5.4 or detailed enough to recommend the suitability of permanent residential and/or a specific noise control package for the proposed development.*
30.  $LA_{eq}$  metric refers to noise levels, measured over a period of time that is then averaged over that time.
31.  $LA_{max}$  refers to the maximum noise level recorded over a stated period.
32. According to the *Environmental Protection (Noise) Regulations 1997* the 55dB level is the maximum sound limit that should not be exceeded in a highly Sensitive area within a Noise sensitive premises e.g. inside a sleeping area of a residential building.
33. The noise acoustic assessment undertaken to determine appropriate building design considered average noise levels,  $LA_{eq}$  from surrounding land use.
34. In response to comment received from Southern Ports, City staff requested that the proponent prepare a more detailed acoustic assessment. The proponent declined to undertake a detailed acoustic assessment and instead recommended that the following condition of development is included in the structure plan:
- *A detailed acoustic assessment is required to support a Development Application detailing the design, construction measures and acoustic treatments incorporated to adequately attenuate external noise levels to ensure night time noise levels within all Multiple Dwellings located within the Accommodation Precinct do not exceed 55dB ( $LA_{(Max)}$ ).*
35. Although this provision may address the concerns raised to some extent it is not enough to deal with the additional information/updates required and to provide certainty that the mitigation is indeed feasible, achievable or something that is considered appropriate e.g. it could include a 10m high noise wall.

The following additional information is therefore still required;

- An updated noise contour plan that includes data provided by Southern Ports and their consultants; and
  - an appropriate noise package detailing attenuation measures to ensure night time noise levels within all Multiple Dwellings located within the Accommodation Precinct do not exceed 55dB ( $LA_{(Max)}$ ).
36. Further, in respect to the matter of noise, a number of public comments objected to the proposal to allow permanent residential accommodation on the grounds that:
- a) The number of people using the precinct will be significantly reduced, further deadening rather than enlivening the waterfront; and
- b) Council will receive complaints about noise, which may inadvertently lead to a request to further change the *Albany Waterfront - Memorandum of Agreement (2007)*, which seeks to protect 24 hour a day, 7 day a week heavy haulage access to the Port of Albany.
37. Based on comments received, it is recommended that Council agree that the City of Albany seek input from the Southern Ports, the Department of Planning, Lands and Heritage and

the Department of Water and Environmental Regulation on the provision proposed by the proponent, prior to making a recommendation to WAPC.

### GOVERNMENT & PUBLIC CONSULTATION

38. Local Structure Plan No.12 was advertised in accordance with the *Planning and Development (Local Planning Schemes) Regulations 2015*. Structure Plans require advertising in accordance with Part 4, cl.18 of the *Planning and Development (Local Planning Schemes) Regulations 2015* (Reg's).
39. The City advertised the structure plan in accordance with the Reg's as follows:
  - a) By giving notice of the proposed structure plan to neighbouring landholders;
  - b) By giving notice of the proposed structure plan in the local newspaper;
  - c) By giving notice of the proposed structure plan via a sign on-site;
  - d) By making a copy of the structure plan available on the City's website and as hard copy at the City of Albany offices (102 North Road).
40. Submissions were received from government agencies and members of the public.

### STATUTORY IMPLICATIONS

41. Local Structure Plans undergo a statutory process in accordance with Schedule 2, Part 4 of the *Planning and Development (Local Planning Schemes) Regulations 2015*.
42. Schedule 2, Part 4, clause 19 requires the local government to consider the submissions made within the period specified in the notice advertising the structure plan.
43. Schedule 2, Part 4, clause 20 requires the local government to prepare a report to the Western Australian Planning Commission, including a recommendation on whether the proposed structure plan should be approved by the Commission.
44. Voting requirement for this item is **SIMPLE MAJORITY**
45. Following endorsement of a structure plan, a proposal to introduce new zones, rezone land and / or introduce additional provisions into a scheme, to reflect structure plan requirements, may be undertaken.

### POLICY IMPLICATIONS

46. The following policies are applicable and have been considered for the assessment of the noise element of the structure plan:
  - a) *State Planning Policy 5.4 Road and Rail Transport Noise and Freight Considerations in Land Use Planning*  

In accordance with SPP5.4, the structure plan seeks to protect occupants from transport noise via quiet house design and notifications on title.

### RISK IDENTIFICATION & MITIGATION

47. The risk identification and categorisation relies on the City's Enterprise Risk & Opportunity Management Framework.

Risk	Likelihood	Consequence	Risk Analysis	Mitigation
Reputation. The proposal may not be accepted by the Western Australian Planning Commission or the Minister for Planning.	Possible	Minor	Low	If not supported by the WAPC or Minister, the proponent has a right of appeal.

**Opportunity:** Increase opportunity for servicing, land use and development.

### FINANCIAL IMPLICATIONS

48. If the local government does not provide a recommendation and report on the structure plan, to the Commission, the Commission may take reasonable steps to obtain the services or information on its own behalf. All costs incurred by the Commission may, with the approval of the Minister, be recovered from the local government as a debt due to the Commission.

### LEGAL IMPLICATIONS

49. There are no legal implications directly relating to this item.

### ENVIRONMENTAL CONSIDERATIONS

50. Development is required to comply with relevant regulations to ensure that the environment is protected, including groundwater and the Princess Royal Harbour.

### ALTERNATE OPTIONS

51. Council may consider alternate options in relation to seeking more information regarding the structure plan, including;
- a) Seeking no additional information and making a recommendation to the Western Australian Planning Commission.

### CONCLUSION

52. This item has been prepared to seek Council support in addressing the noise related aspects of the structure plan prior to its full consideration.
53. Local Structure Plan No.12 is proposing changes to the Albany Waterfront Structure Plan (2011).
54. Modifications proposed include:
- a) Introducing permanent residential accommodation;
  - b) Reduced setback to Princess Royal Drive; and
  - c) Basement parking.
55. The Southern Ports contend that an acoustic assessment completed to support the structure plan, should consider maximum noise levels and not just average noise levels.
56. Instead of undertaking a detailed assessment, the proponent recommended that the following provision be included, which requires a detailed acoustic assessment at the development stage:

*A detailed acoustic assessment is required to support a Development Application detailing the design, construction measures and acoustic treatments incorporated to adequately attenuate external noise levels to ensure night time noise levels within all Multiple Dwellings located within the Accommodation Precinct do not exceed 55dB (LA(Max)).*

57. Prior to considering the Structure Plan, Council is requested to agree that the City of Albany:
- a) Request the following additional information;
    - (i) An updated noise contour plan that includes data provided by Southern Ports and their consultants; and
    - (ii) an appropriate noise package detailing attenuation measures to ensure night time noise levels within all Multiple Dwellings located within the Accommodation Precinct do not exceed 55dB (LA<sub>(Max)</sub>).

- b) Seek input from the Southern Ports, the Department of Planning, Lands and Heritage and the Department of Water and Environmental Regulation on the above proposed provision. Although this provision may address the concerns raised to some extent it is not enough to deal with the additional information/updates required and to provide certainty that the mitigation is indeed feasible, achievable or something that is considered appropriate e.g. it could include a 10m high noise wall.

<b>Consulted References</b>	:	<ol style="list-style-type: none"> <li>1. <i>Local Planning Scheme No. 1</i></li> <li>2. <i>Albany Local Planning Strategy (2010)</i></li> <li>3. <i>State Planning Policy No.3 – Urban Growth and Settlement</i></li> <li>4. <i>State Planning Bulletin No. 83 – Planning for Tourism</i></li> <li>5. <i>State Planning Policy 5.4 Road and Rail Transport Noise and Freight Considerations in Land Use Planning.</i></li> </ol>
<b>File Number (Name of Ward)</b>	:	LSP12 (Frederickstown Ward)
<b>Previous Reference</b>	:	Nil

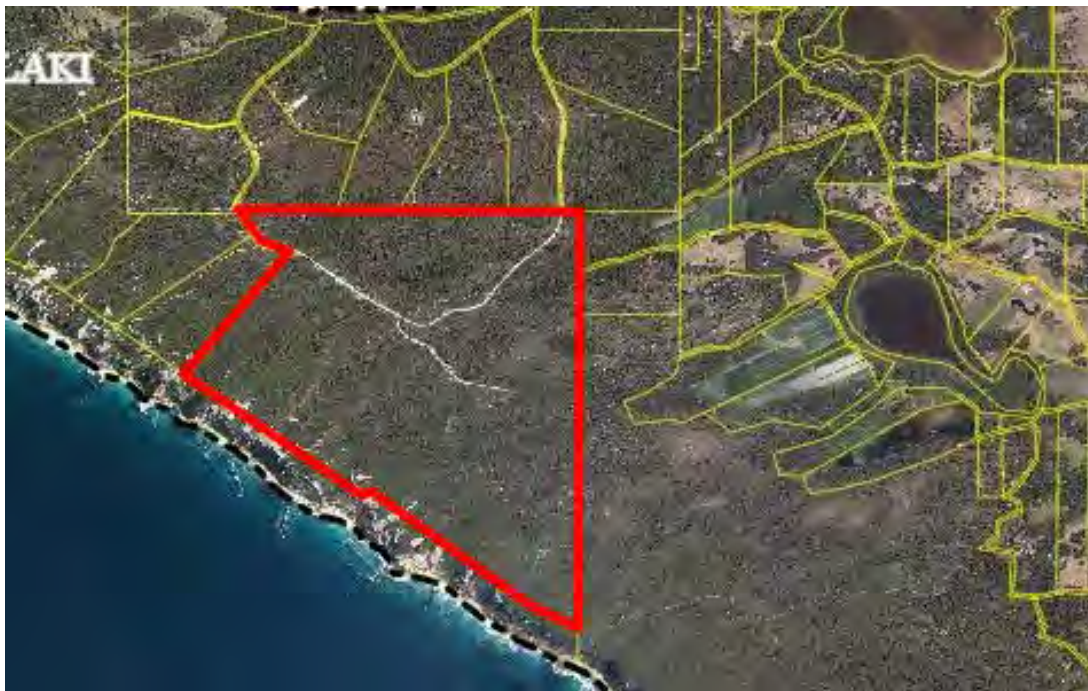
**DIS106: INDUSTRY – EXTRACTIVE (LIME), LOT 9005 EDEN ROAD,  
NULLAKI**

<b>Land Description</b>	: 9005 Eden Road, Nullaki.
<b>Proponent</b>	: Sam Williams
<b>Owner</b>	: Graeme Robertson
<b>Business Entity Name</b>	: N/A
<b>Directors</b>	: N/A
<b>Attachments</b>	: Area Plan Site Plan Copy of Proposal Schedule of Submissions Updated site plan and letter amending application
<b>Report Prepared by</b>	: Coordinator Planning Services (A Bott)
<b>Responsible Officer</b>	: Executive Director Development Services (P Camins)

**STRATEGIC IMPLICATIONS**

1. Council is required to exercise its quasi-judicial function in this matter.
2. When exercising its discretion in relation to planning matters, the pertinent strategic document is the *Albany Local Planning Strategy*.
3. The proposal is inconsistent with the strategic direction identified in the *Albany Local Planning Strategy*.

**Maps and Diagrams:**



\* *Noting the original assessment of this application was in 2017, a number of Government agencies have subsequently had name changes. In order to avoid confusion, all Government Departments will be referred to as they were at the time of consultation.*

**In Brief:**

- At September 2017 Council Meeting, Council resolved to refuse an application for a lime pit at Lot 9005 Eden Road, Nullaki.
- The applicant subsequently appealed the decision to the State Administrative Tribunal for review.
- In orders dated 1 June, 2018, the State Administrative Tribunal required Council to reconsider its decision in respect to the – Extractive (Lime), at Lot 9005 Eden Road, Nullaki.
- Through the SAT process, the proponent has provided the City with additional information in support of the application, including;
  - Revised site plan of 8ha in area, which incorporates the separate stock pile area previously proposed into the excavation area.
  - Amended months of operation and transport between December and March.
  - An expected 8 truck movements in and 8 movements out per day.
  - Upgrading of the Lee Road extension prior to commencement of operation
- The proposal seeks to initially extract 20,000 tonnes of lime per a year, with a potential increase to 50,000 per year and possibly extending to 100,000 tonnes per year. It is proposed to cart the extracted lime from site via Lee Road.
- The applicant has proposed a yearly royalty of the lesser of 5% of revenue from the lime pit operation, or \$30,000 per financial year, being made to the Nullaki Wilderness Association.
- The application was advertised for public comment and referred to Government agencies.
- 75 public submissions were received in relation to the proposal. Six submissions supported the proposal, with 69 providing objections or serious concern.
- Support of the proposal was based on manageable environmental impacts and a need for lime within the agricultural sector.
- The submissions opposing the development relate to the non-compliance with the Conservation zone, proposed access route, noise, dust, proximity to dwellings and health issues.
- The proposal was referred to the Environmental Protection Authority (EPA) by the applicant, with the matter being deferred until a determination was made. The EPA determined on 16 August, 2017 that the proposal would not be assessed by the EPA, with the matter capable of being dealt with by the standard clearing permit process.
- Extractive Industry is not a use that shall be permitted or a use that may be permitted under clause 3 of Schedule 12 (CZ1). The only other type of use that may be permitted under clause 3 is “Other incidental or non defined activities considered appropriate by the Local Government which are consistent with the objectives of the Zone”. The Extractive Industry use proposed is not an incidental or non defined activity, nor is it consistent with the objectives of the Zone.
- The Department of Planning made a submission to the City of Albany providing an objection to the matter. Officers consider the Department of Planning submission holds significant importance for the determination of the matter.
- While the proposal is broadly compliant with the City of Albany *Extractive Industries and Mining Local Planning Policy* it is considered that the proposal remains inconsistent with the objectives and provisions of Conservation zone CZ1, as contained within *Local Planning Scheme No. 1*.

- Having considered the revised information received, and the requirement to reconsider the proposal, staff remain of the view that the proposal is not consistent with the objectives and provisions of the Conservation zone, and recommend that Council refuse the proposed development.

## RECOMMENDATION

### **DIS106: COMMITTEE RECOMMENDATION**

**MOVED: MAYOR WELLINGTON**  
**SECONDED: COUNCILLOR GOODE**

**THAT the Responsible Officer Recommendation be ADOPTED.**

**CARRIED: 11-0**

### DIS106: RESPONSIBLE OFFICER RECOMMENDATION

THAT Council resolves to ISSUE a notice of REFUSAL for Industry – Extractive (Lime) at Lot 9005 Eden Road, Nullaki, for the following reasons;

- (1) The proposal does not satisfy the following matters to be considered as identified in Schedule 2, Part 9, Clause 67 of the Planning and Development (Local Planning Schemes) Regulations 2015, namely;
  - (a) the aims and provisions of this Scheme and any other local planning scheme operating within the Scheme area;
  - (b) the requirements of orderly and proper planning including any proposed local planning scheme or amendment to this Scheme that has been advertised under the Planning and Development (Local Planning Schemes) Regulations 2015 or any other proposed planning instrument that the local government is seriously considering adopting or approving
  - (n) the amenity of the locality including the following –
    - (i) environmental impacts of the development;
    - (ii) the character of the locality;
    - (iii) social impacts of the development;
  - (y) any submissions received on the application;
  - (za) the comments or submissions received from any authority consulted under clause 66;
- (2) The proposal does not comply with the general objectives of the Conservation Zone, and also the objectives contained within Schedule 12 – Conservation Zone Provisions No. CZ1 of Local Planning Scheme No.1.

## BACKGROUND

1. *Local Planning Scheme No. 1* was gazetted on 28 April 2014 and consists of the Scheme Text and the Scheme Maps. The Scheme divides the Local Government district into zones to identify areas for particular uses and identifies land reserved for public purposes. Most importantly, the Scheme controls the types of uses and development allowed in different zones. There are particular controls included for heritage and special control areas. The Scheme Text also sets out the requirements for planning approval, enforcement of the Scheme provisions and non-conforming uses.



2. The subject lot lies to the western side of Lower Denmark Road and to the southern side of Eden Road, approximately 40km west of Albany City centre. The lot has an area of approximately 437 hectares and is zoned 'Conservation' and listed as No. CZ1 in Schedule 12 of City of Albany *Local Planning Scheme No. 1*.
3. The subject lot is bounded by reserved land to the south and east. The land to the north and west is zoned Conservation. The Bibbulmun Track runs to the east of the subject site.
4. Due to the environmental properties of the land, and in order to secure long term land use protection, the Nullaki Peninsula is zoned Conservation under *Local Planning Scheme No. 1*.
5. In terms of permissibility, Extractive Industry is not a use that shall be permitted or a use that may be permitted under clause 3 of Schedule 12 (CZ1). The only other type of use that may be permitted under clause 3 is "Other incidental or non defined activities considered appropriate by the Local Government which are consistent with the objectives of the Zone". The Extractive Industry use proposed is not an incidental or non defined activity, nor is it consistent with the objectives of the Zone..
6. The application was advertised extensively for public comment, with landowners in the area directly notified by letter. Government agencies were also directly notified.
7. Six submissions supported the proposal. Support was largely based on the basis of the proposal potentially having a minimal environmental impact and the current lack of availability of lime within the Great Southern region.
8. 69 public submissions objected to the proposal.
9. The City of Albany has received advice from a number of Government agencies.
10. The proposal was previously refused at the September 2017 OCM. In orders dated 1 June 2018, the State Administrative Tribunal invited the City of Albany to reconsider its decision in light of certain changes made by the applicant to the application, comprising:
  - a. Revised site plan of 8ha in area, which incorporates the separate stock pile area previously proposed into the excavation area.
  - b. Amended months of operation and transport between December and March.
  - c. An expected 8 truck movements in and 8 movements out per day
  - d. Upgrading of the Lee Road extension prior to commencement of operations
11. The City of Albany currently has an omnibus scheme amendment (AMD 29) pending consideration at the WAPC statutory planning committee. A provision of this amendment in respect to the CZ1 zone clarifies that only the land uses specifically listed within CZ1 are capable of consideration and approval. In accordance with this amendment, the land use of Industry (Extractive) would be considered a prohibited land use. It is noted that as per Schedule 2, Part 9, Clause 67 (b) of the *Planning and Development (Local Planning Schemes) Regulations 2015*, that the Scheme Amendment 29 is a relevant planning consideration. It is considered that approval of the proposed use would be contrary to the interests of orderly and proper planning given the likely (and imminent) approval of Amendment 29.
12. Council is now requested to consider the revised application and determine whether to grant development approval.

## DISCUSSION

13. The subject site is 437 hectares in size and zoned Conservation under *Local Planning Scheme No.1*. The Conservation zone allows for controlled development in accordance with strict development provisions.
14. In addition to the Conservation zoning, and to further preserve environmental qualities of the area, the current owner has recently undertaken a conservation covenant with Department of

Parks and Wildlife (DPAW) over a portion of the subject property. While located on the same title, the proposed extraction area is outside of the covenant area.

15. The applicant has advised that the site is a quality lime deposit, with the lime possessing a high neutralising value.
16. In terms of operation, the application proposes the following key elements;
  - Expected 20 year lifetime;
  - Lime being extracted from a 8 hectares area;
  - Stockpiled on a 2 hectares storage area, now incorporated with the excavation area
  - Anticipated to start at 20,000 tonnes per a year and increase to 50,000 per year with possible increase to 100,000 tonnes per year;
  - Operating Monday - Saturday 6.30 am to 5.00 pm excluding public holidays.
  - Carted off site via Lee Road;
  - Lime products are to be transported from December and March.
  - The proponent seeks to contribute the lesser of 5% of revenue from the lime pit operation or \$30,000 per financial year to the Nullaki Wilderness Association.
17. The proposed operations proposed are broadly compliant with the City of Albany *Extractive Industries and Mining Local Planning Policy*. In the event of approval, it is considered that planning conditions and any subsequent environmental approvals would address matters in the event of approval.
18. However, noting the above, the primary issues with the development, and subsequent recommendation, relate to Local Planning Scheme No.1 matters, primarily in respect to permissibility and appropriateness within the zone.
19. The applicant has put forward the notion that the proposal can be considered to be in accordance with the objectives of the zone on the grounds that the works are environmentally acceptable and that the royalty proposed will ensure the long term provision of funds towards the Nullaki area.
20. As discussed in greater detail below, the Department of Planning has raised a number of issues with to the proposal in respect to the planning framework.
21. A total of 75 public submissions were received from members of the public during the advertising period. Six of these supported the proposal, with sixty-nine objecting or raising concerns.
22. Support of the proposal identified a need for an accessible lime resource with the region and that any potential environmental impacts can be managed and mitigated.
23. The objections received primarily relate to non-compatibility with the zone, potential impacts on amenity, environment, and traffic from the proposed operations.
24. The matters raised both for and against the proposal during the advertising process are addressed in the attached schedule of submissions. The following key elements were raised during the assessment and referral of the proposal. The matters are discussed in details below;

#### Compliance with Conservation Zone Provisions and Objectives

25. Extractive Industry is not a use that shall be permitted or a use that may be permitted under clause 3 of Schedule 12 (CZ1). The only other type of use that may be permitted under clause 3 is "Other incidental or non defined activities considered appropriate by the Local Government which are consistent with the objectives of the Zone". The Extractive Industry use proposed is not an incidental or non defined activity, nor is it consistent with the objectives of the Zone.

26. The proposal is subject to the general Conservation Zone objectives of *Local Planning Scheme No.1*, which are as follows;
- a) *Provide for residential uses upon large lots adjoining significant environmentally sensitive areas such as coastal or conservation areas where there is a demonstrated commitment to protecting, enhancing and rehabilitating the flora, fauna and landscape qualities of the particular site; and*
  - (b) *Require innovative subdivision design and development controls to:*
    - (i) *Minimise visual impacts from subdivisional infrastructure, particularly roads;*
    - (ii) *Restrict access to any sensitive areas such as beaches, conservation areas or National Parks that adjoin the zone;*
    - (iii) *Prevent land uses and development that would adversely impact on the ecological values of the site for conservation purposes; and*
    - (iv) *Provide for the safety of future residents from the threat of wild fire.*
27. In addition to the abovementioned general conservation objectives, the objectives of Conservation zone CZ1 are as follows;
- b) *Protect, enhance and rehabilitate the flora, fauna and landscape qualities of the Nullaki Peninsula;*
  - c) *Provide for controlled public access to the Peninsula, the Wilson Inlet Foreshore and Anvil Beach; and*
  - d) *Provide for limited wilderness retreat subdivision and development in a manner that is compatible with the conservation values of the Nullaki Peninsula.*
28. Any extractive industry operation will be in direct conflict with the scheme objective that requires Protection, enhancement and rehabilitation of the flora, fauna and landscape qualities of the Nullaki Peninsula.
29. The applicant has argued that the proposal is environmentally acceptable, and via the proposed monetary royalty, will contribute to the ongoing conservation efforts of the zone.
30. In respect to the above, if there was an intent within the zone for extractive industries to be considered as a bona fide land use within such a sensitive zone, there would be specific provisions as such. The absence of such provisions in this zone, in conjunction with the limited land uses which are identified as being permissible, further reinforces that the proposed land use is not suitable.
31. Given the abovementioned Local Planning Scheme matters pertinent to the proposal, the application was also referred to the Department of Planning for comment. The Department of Planning raised a number of concerns regarding the development and advised that the City of Albany should not approve the development.
32. The Department of Planning submission on the proposal outlines a number of areas of non-compliance with the development provisions of the zone, including, *inter alia*;
- The use would be contrary to *Local Planning Scheme No.1*;
  - The primary objective of the zone is for Residential uses. The secondary objective (b) (iii) directs the local government to provide for land use and development provisions which prevent impacts to the zone's conservation purpose;
  - The application proposes a maximum of 4ha development area which exceeds the 1ha maximum allowable development footprint (cl 3.4 (e) and 4.3);
  - Proposed pit No.4 is within the 200 metre exclusion area of the foreshore reserve;
  - Pits are located along a significant ridgeline;
  - The land use is not supported within the *Albany Local Planning Strategy*;

- The *Lower Great Southern Strategy* notes environmental or conservation considerations may have a higher priority than resource extraction in the region.
  - Approval would set an undesirable precedent for similar uses within all other lots within the Conservation Zone
  - There is no mechanism that can guarantee proposed royalties from the sale of lime extracted will be reinvested across the whole of the Nullaki Peninsula Conservation zone;
  - The Department of Agriculture and Food (DAFWA) letter should only be considered regarding its comments on lime quality and resources within a greater context of the region and the State. It is not a letter of support for this particular proposal as more detail was requested on impacts of the proposal over the life of the project
  - The original amendment over area CZ1 from Rural zone to Conservation zone was supported by the Environmental Protection Authority on the proviso that 'Extractive Industry' uses were removed from the permissible uses.
33. A number of public submissions have also noted that approval of the application would result in an undesirable precedent being set for development within the Conservation zone. Approval of the development would not automatically create a precedent, as there are very specific elements which are required to be in place for a precedent to be applicable. However, it is considered that approval of the proposed use would create a risk of precedent within all conservation zones which would not otherwise exist. If a lime pit is approved on the basis of environmental acceptability in conjunction with an environmentally based monetary contribution, it is not inconceivable that that other land uses inconsistent with the zone may follow.

#### Impact on Amenity

34. A majority of the submissions against the proposal raised concerns with noise, dust and vibration resulting from the operations and the impact it will have on residents adjacent to the subject site.
35. Amenity is defined within Local Planning Scheme No.1 as
- “All those factors which combine to form the character of an area and include the present and likely future amenity”*
36. The *Extractive Industry and Mining Policy* requires that buffer distances are to be in accordance with the setbacks outlined within the Environmental Protection Authority requirements - the Environmental Protection Authority's Separation Distances between Industrial and Sensitive Land Uses guidelines. The closest dwelling is approximately 1200 from haul road on the subject site.
37. The Department of Environment Regulation is the responsible body for the assessment of the emissions and buffers for screening and crushing plants. The applicant is therefore responsible and obligated to ensure that they have the required licences from DER prior to any activity onsite.
38. A number of landowners within the CZ1 zone have raised the issue that irrespective of separation distances, they have purchased properties (at a significant cost) within the conservation zone, on the reasonable expectation of a high level of amenity, and on the basis that the zone would not be shared with an extractive industry or similar uses.

#### Road Realignment and Vehicle Movements

39. The applicant has proposed to re-align and construct the western portion of Lee Road and utilise the connection as a haulage route.
40. In respect to the construction of Lee road, the applicant has advised that *“subject to the continual operation of the lime pit, the proponent will undertake to upgrade Lee Road at a rate of 500 metres a year”* and has subsequently advised it would upgrade the entire Lee Road extension prior to commencement of operations. In the event of approval being granted, the

City of Albany would require all necessary upgrades (including but not limited to Lee Road) to be made prior to the commencement of operation.

41. A large number of submissions have stated that there are concerns that if the proposed land use is approved that the road network would not be able to safely operate.
42. If the applicant was to be granted approval they would be required to fully construct Lee road and upgrade associated roads/infrastructure along the route to accommodate trucks. Upgrades may be substantial as it could potentially involve bridges and road widening. If approved, it is recommended the applicant be required to undertake a road infrastructure audit to identify roads and infrastructure that require upgrading to accommodate the proposal.
43. Concerns were raised by both the community and Government agencies regarding the proposed use and realignment of Lee Road.
44. The Department of Parks and Wildlife and the Bibbulmun Track Foundation raised significant concerns in relation to the potentially detrimental impact the realignment and use of Lee road would have on the track and associated facilities. The concerns related to the following matters;
  - The extension of Lee Road comes to within approximately 140m of an overnight track Shelter, 80 metres from the emergency helicopter extraction point and will cross over the Bibbulmun Track;
  - If the proposal was to proceed the Bibbulmun Track Shelter would need to be relocated. Relocation of the Bibbulmun Shelter and possible track re-alignments would be at a significant cost due to not only the physical removal and relocation but the rehabilitation of existing site and alteration of associated publications (maps, guidebooks).
45. The potential amenity impact on Bibbulmun Track and the impact of the road alignment on the overnight shelter form an important consideration for the matter.

#### Lime Availability

46. The need for a readily available lime source was raised in a number of submissions on the proposal.
47. The applicant has submitted a copy of previous correspondence from DAFWA in respect to lime availability in the Great Southern. The submission outlines that soil acidity is a major degradation issue across the Western Australia. It is then outlined that the application of lime is the most cost effective way to manage acidic soils.
48. The correspondence also details that lime within the Nullaki resource possesses a high neutralising value.
49. While at the time of preparation of the proposal the Denmark pit was closed, it has been recently publicised that the Denmark Lime pit is reopening.
50. While it is acknowledged the availability lime is key resource for construction and soil management, the shortage or abundance and quality of a commodity is not a consideration within the planning framework. Furthermore, noting the Department of Planning advice, it also does not justify the extraction of a resource on inappropriately zone land.

#### **GOVERNMENT & PUBLIC CONSULTATION**

51. The proposal was advertised for public comment, in accordance with clause 64 – *Advertising Applications* of part two of the *Planning and Development (Local Planning Schemes) Regulations*.
52. A total of 75 submissions were received during the advertising period. Sixty-nine submissions objected to the proposal and six submissions had no objections and supported the proposal. Staff comments and recommendations are provided in the attached schedule, while the broad issues are discussed above under the relevant issue heading.

53. As discussed within an earlier section of this report in greater detail, the Department of Planning made a submission to the City of Albany on the matter, recommending the City of Albany not support the proposal.
54. The matter was referred to the EPA by the applicant. The EPA advised that the proposal would not be assessed, and could be considered under the standard clearing permit process. The EPA process and response will be discussed further within the environmental consideration section of this report.
55. In addition to the public consultation and EPA referral, the proposal was also sent to the applicable government agencies for comment.
56. Advice was received from the Department of Water stating that they had no objections that in the event of approval being granted that the rehabilitation plan is strictly adhered to.
57. The Department of Environmental Regulation has advised that depending on operational output, the proposal may be a prescribed activity and require a licence. It should be noted that screening and crushing are subject to a separate licence and assessment through the Department of Environment Regulation.
58. DER advice has also be reaffirmed by the EPA outcomes. That is, the proposal does not benefit from an exemption under clearing controls, and will require a clearing permit.
59. The Department of Parks and Wildlife has advised that they object to the proposal on the basis of the following;
  - Proximity of the proposal to the Bibbulmun track
  - Potential impact on the Bibbulmun track and the amenity of the users, noting that there is a campsite in the proximity of the proposed haulage road.
60. The Bibbulmun Track Foundation has also supported the abovementioned matters raised by the Department of parks and Wildlife in a separate submission.
61. The Department of Mines have advised that they had previously supported in principle a now defunct Scheme amendment request to include extractive industry as a discretionary land use within the zone, on the basis of the continued supply of lime is an important resource. The Department has noted the proposal falls outside of the *Mining Act 1978*.
62. The Department of Aboriginal Affairs (DAA) has advised that there are no reported Aboriginal sites or heritage places within the area of the proposal. However, the DAA recommends the developers utilise the Aboriginal Heritage Due Diligence guidelines when undertaking developments.
63. As per the SAT orders dated 1 June, 2018, the City of Albany has referred the submitted Bushfire Management Plan to the Department of Fire and Emergency Services for comment. At the time of writing this report, a submission had not been received. A copy of the submission will be attached to the item upon receipt.

## STATUTORY IMPLICATIONS

64. The land use of Extractive Industry is not identified as either a permissible or prohibited use within the CZ1 Conservation Zone. On this basis, and the proposal has been processed as a 'use not listed' and advertised accordingly.
65. CI 4.4.2 of *Local Planning Scheme No.1* provides guidance for the assessment of a use not listed. Consideration of such a land use is largely dependent on the consistency with the objectives of the zone.
66. Further to the above, the City of Albany currently has an omnibus scheme amendment (AMD 29) pending consideration at the WAPC statutory planning committee. A provision of this amendment in respect to the CZ1 zone clarifies that only the land uses specifically listed within CZ1 are capable of consideration and approval. In accordance with this amendment, the land use of Industry (Extractive) would be considered a prohibited land use. It is noted that as per Schedule 2, Part 9, Clause 67 (b) of the *Planning and Development (Local Planning*

*Schemes) Regulations 2015*, that the Scheme Amendment 29 is a relevant planning consideration. It is considered that approval of the proposed use would be contrary to the interests of orderly and proper planning given the likely (and imminent) approval of Amendment 29.

67. It is necessary to consider that the EPA decision on the matter does not alter or remove the Council decision making process of the matter against *Local Planning Scheme No.1* and the associated polices.
68. The Department of Planning has advised that the approval of the application could potentially create an undesirable precedent.
69. Furthermore, the Department of Planning has advised that approval of the application could give rise to a representation being made to the Minister for Planning under s211 of the *Planning and Development Act* on the basis of a failure by the City to enforce or implement effectively the observance of its Local Planning Scheme
70. Voting requirement is a **Simple Majority**.

### POLICY IMPLICATIONS

71. The primary assessment criteria for the application are set out in the City of Albany *Extractive Industry and Mining* local planning policy. The proposal is broadly compliant with the policy.
72. The Policy requires that buffer distances are to be in accordance with the setbacks outlined within the Environmental Protection Authority requirements. The Environmental Protection Authority's *Separation Distances between Industrial and Sensitive Land Uses* guidelines do not set out a specific buffer for this type of extraction and therefore the proposal was referred to the Department of Environment Regulation who have advised that they have no comments on the proposal. It should be noted that a separate licence through DER is required to be obtained for screening and crushing plants and therefore a full assessment by DER will be undertaken at this time.
73. The primary consideration in the determination in this instance is the provisions of *Local Planning Scheme No.1*

### RISK IDENTIFICATION & MITIGATION

74. The risk identification and categorisation relies on the City's Enterprise Risk & Opportunity Management Framework.

Risk	Likelihood	Consequence	Risk Analysis	Mitigation
<b>Organisational Operations and Reputation</b> <i>Refusal could result in a shortage of lime within the City of Albany</i>	<i>Possible</i>	<i>Moderate</i>	<i>Medium</i>	<i>Mitigation through the consideration of proposals on suitably zoned land</i>

### FINANCIAL IMPLICATIONS

75. All costs associated with the development will be borne by the proponent.
76. However, should the proponents be aggrieved by Council's decision or any attached conditions and seek a review of that decision or conditions through the State Administrative Tribunal, the City could be liable for costs associated with defending the decision at a State Administrative Tribunal hearing.

## LEGAL IMPLICATIONS

77. Noting the restriction outlined within the statutory implications section, Council is at liberty to use its discretion to approve or refuse the proposal. An applicant aggrieved by a decision or condition may apply for a review to the State Administrative Tribunal, in accordance with Section 252 of the *Planning and Development Act 2005*.
78. The proponent has the right to seek a review of the Council's decision, including any conditions attached to an approval. The City of Albany may be required to defend the decision at a State Administrative Tribunal hearing.

## ENVIRONMENTAL CONSIDERATIONS

79. The applicant referred the proposal to the Environmental Protection Authority for consideration. As per the EPA Act, the City of Albany was constrained from approving the development until the EPA process was finalised. In order to allow full consideration of the proposal, and the ability to form a decision in either the positive or negative, the matter was deferred until a determination of the environmental acceptability of the proposal was made.
80. In respect to the above, consideration of the proposal was deferred for a number of months while the EPA process was completed.
81. As mentioned previously, the EPA concluded that the proposal does not require formal assessment. The EPA has advised that the substantive environmental considerations can be dealt with through the standard clearing permit process, and in the event planning approval being granted, in conjunction with planning conditions.
82. It is necessary to consider that the EPA advice is in respect to environmental matters only, and is only one consideration within the assessment of the proposal against the statutory framework. In respect to Local Planning Scheme No.1 requirements, officers consider the Department of Planning submission holds significant importance for the determination of the matter.

## ALTERNATE OPTIONS

83. Council has the following alternate options in relation to this item, which are:
  - To resolve to approve the proposal subject to conditions.

## SUMMARY CONCLUSION

84. Through the SAT process the City of Albany has been asked to reconsider the matter.
85. The proposal seeks to establish an extractive industry for lime within the Nullaki conservation zone.
86. The proposal was advertised to the Community and Government agencies.
87. The Department of Planning submission raised a number of issues relevant to the proposal in respect to the planning framework.
88. The primary consideration leading to the recommended determination is not whether the proposal complies with the *Extractive Industry and Mining Policy*. Rather, that the application is considered to be inconsistent with the objectives and provisions of the CZ1 zone under Local Planning scheme No.1 and the matters to be considered in the *Planning and Development (Local Planning Schemes) Regulations 2015*.
89. While the provision of lime has been identified as a necessary farming resource within the Great Southern region, the current state of supply does not justify the approval of a lime resource within a zone which is not suitable.



90. It is therefore recommended that Council refuse the the proposed development, subject to the reasons provided.

<b>Consulted References</b>	:	<ol style="list-style-type: none"> <li>1. <i>Local Planning Scheme No. 1</i></li> <li>2. <i>Albany Local Planning Strategy 2010</i></li> <li>3. <i>City of Albany Extractive Industries and Mining local Planning policy</i></li> <li>4. <i>Environmental Protection (Noise) Regulations 1997</i></li> <li>5. <i>Environmental Protection Authority Separation Distances between Industrial and Sensitive Land Uses</i></li> </ol>
<b>File Number (Name of Ward)</b>	:	<b>A200151 (West Ward)</b>
<b>Previous Reference</b>	:	Nil

## DIS107: REVIEW OF POLICY-RESPONSE TO APPEALS TO THE STATE ADMINISTRATIVE TRIBUNAL (SAT) POLICY

<b>Proponent / Owner</b>	: City of Albany
<b>Attachments</b>	: Response to Appeals to the State Administrative Tribunal (SAT) Policy
<b>Report Prepared By</b>	: Manager Governance & Risk (S Jamieson)
<b>Responsible Officers:</b>	: Executive Director Development Services (P Camins)

### STRATEGIC IMPLICATIONS

1. This item relates to the following elements of the City of Albany Strategic Community Plan or Corporate Business Plan informing plans or strategies:
  - **Theme:** Leadership.
  - **Objective:** To provide strong, accountable leadership supported by a skilled and professional workforce
  - **Community Priority:** Provide positive leadership that delivers community outcomes.

#### In Brief:

- The Response to Appeals to the State Administrative Tribunal (SAT) Policy is due for review.
- The Policy has been reviewed by the Responsible Officer and no changes have been recommended.
- Council is requested to review the policy, advise if any amendments are required, and ADOPT the reviewed policy.

### RECOMMENDATION

#### DIS107: COMMITTEE RECOMMENDATION

**MOVED: COUNCILLOR HAMMOND**  
**SECONDED: COUNCILLOR GOODE**

**THAT the Responsible Officer Recommendation be ADOPTED.**

**CARRIED: 11-0**

#### DIS107: RESPONSIBLE OFFICER RECOMMENDATION

THAT the reviewed Response to Appeals in the State Administrative Tribunal (SAT) Policy be ADOPTED.

### BACKGROUND

2. The Response to Appeals to the State Administrative Tribunal (SAT) Policy was adopted by Council at the Ordinary Council Meeting held 24 June 2014 (CSF092).
3. At the Ordinary Council Meeting held 23 May 2017 (CCS028) Council chose not to review any specific policy.

### DISCUSSION

4. **Purpose:** The Policy was developed to clarify the role, responsibility and accountability of Council and City Officers in respect to decisions made which are the subject of an application to the State Administrative Tribunal for review.
5. A Policy review should ensure that the policy:
  - Reflects current legislative and regulatory requirements, and has a clear intent.

- Meets the functional and operational requirements for executing the policy;
- Is responsive and reflective of the needs of the City’s stakeholders, residents and ratepayers; and
- Is relevant in the local government context.

**GOVERNMENT & PUBLIC CONSULTATION**

6. No consultation required.

**STATUTORY IMPLICATIONS**

7. In accordance with the *Local Government Act 1995* section 2.7 (2)(b), it is the role of Council to determine the local government’s policies.

**POLICY IMPLICATIONS**

8. This policy position complements the current delegated authority to the Chief Executive Officer and Executive Director Development Services.

**RISK IDENTIFICATION & MITIGATION**

9. The risk identification and categorisation relies on the City’s Enterprise Risk and Opportunity Management Framework.

Risk	Likelihood	Consequence	Risk Analysis	Mitigation
<p><b>Reputation</b></p> <p><i>Risk: The reviewed policy is not adopted.</i></p>	<i>Unlikely</i>	<i>Moderate</i>	<i>Medium</i>	<i>Continue with current policy position and re-present to Council for adoption.</i>

**FINANCIAL IMPLICATIONS**

10. Elected Member attendance at SAT appeals will have a financial implication.

**LEGAL IMPLICATIONS**

11. There are no legal implications related to this report.

**ENVIRONMENTAL CONSIDERATIONS**

12. There are no direct environmental considerations relating to this report.

**CONCLUSION**

13. It is recommended that the reviewed policy be adopted.

<b>Consulted References</b>	:	<i>Local Government Act 1995</i> <i>Local Government (Administration) Regulations 1996</i>
<b>File Number (Name of Ward)</b>	:	All Wards
<b>Previous Reference</b>	:	CSF092 OCM 24/06/2014 CCS028 OCM 23/05/2017

**DIS108: REGIONAL ROAD GROUP FUNDING SUBMISSIONS**

<b>Proponent / Owner</b>	: City of Albany
<b>Attachments</b>	: Attachment 1 - Regional Road Group Funding Application List
<b>Report Prepared By</b>	: Manager City Engineering (D King)
<b>Responsible Officers:</b>	: Executive Director Infrastructure and Environment (M Thomson)

**STRATEGIC IMPLICATIONS**

1. This item relates to the following elements of the City of Albany Strategic Community Plan or Corporate Business Plan informing plans or strategies:
  - **Theme:** Clean Green and Sustainable.
  - **Objective:** To build, maintain and renew city assets sustainably
  - **Community Priority:** Design, construct and maintain infrastructure cost effectively in a manner that maximises it's life, capacity and function.

**In Brief:**

- The Great Southern Regional Road Group (GSRRG) administers a number of State and Federal road funding scheme. These include State Road Project funding, State and Federal Blackspot and State Commodities Funding.
- Approval is sought to make annual applications for funding these proposed works.

**RECOMMENDATION**

**DIS108: COMMITTEE RECOMMENDATION**

**MOVED: COUNCILLOR SUTTON  
SECONDED: COUNCILLOR DOUGHTY**

**THAT the Responsible Officer Recommendation be ADOPTED.**

**CARRIED: 11-0**

**DIS108: RESPONSIBLE OFFICER RECOMMENDATION**

**THAT Council APPROVE the 2019/20 Great Southern Regional Road Group Funding Applications.**

**BACKGROUND**

2. Main Roads WA, in cooperation with Local Government, develops and manages the road network to meet the needs of the community. The State provides road funds for a number of programs administered by the State Road Funds to Local Government Advisory Committee. The Great Southern Regional Road Group (GSRRG) coordinates an annual application process to determine the distribution of these funds. Currently there are four sources of road funding available through this process.
3. Identified Roads of Regional Significance (Roads 2030) are eligible for Road Project Grants. State funding is spread across 10 WA Regional Road Groups and is based on a percentage (27%) of the vehicle licence fee revenue which varies from year to year.
4. Funding for Road Project Grants provides two thirds (67%) of total project costs with the other third coming from Council's own resources. The GSRRG has also enacted a cap of 20% which limits the amount that any one Council can receive from the funding pool each year.

5. The GSRRG Policy and Procedure Guideline and Project Prioritisation Guidelines govern the assessment of projects for Road Project Grants put forward for funding. Projects are scored and then ranked into four broad categories – preservation, concluding, continuing, and new projects.
6. 2018/19 GSRRG Road Project Grant pool indicatively totals \$5,954,564 and Local Government funding is capped at 20% of the Pool (\$1,190,912) for each council. The City of Albany are likely to be successful in securing \$937,200 for Albany Highway reconstruction for the 2018/19 Financial Year.
7. Black Spot Program funds are also allocated to individual Regional Road Groups for distribution. The GSRRG also processes the National Black Spot Program which sources federal funding for complying projects.
8. State Blackspot Program funding covers two thirds (67%) and the National Program covers all (100%) of total project costs. For the national program crash criteria is required to demonstrate a benefit cost ratio (BCR) of over 2 to comply. For the state program either a BCR or a road safety audit are required to comply.
9. The Great Southern Technical Working Group members each assess the applications and rank them on being the most appropriate and cost effective.
10. 2018/19 GSRRG State Blackspot pool indicatively totals \$354,296 with no capping for individual Local Governments. The City of Albany are likely to be successful in securing \$95,084 for various local black spot projects.
11. Commodity Routes Supplementary Funding (CRSF) is provided for roads which are not Roads of Regional Significance (Roads 2030) but where there is a significant high priority transport task associated with the transport of a commodity.
12. Commodities Routes Funding is distributed according to project ranking with no regional constraints. CRSF funding provides two thirds (67%) of total project costs and is limited to a maximum of \$250,000 per submitted project.
13. The City of Albany were unsuccessful in obtaining any commodities route funding for the 2018/19 financial year.

## **DISCUSSION**

14. With the preparation and annual review of the Long Term Financial and Asset Management Plans a 10 year Forward Capital Works Program has been prepared identifying projects and allocating grant funding and the City's own resources in successive financial years.
15. RRG Road Projects are the most likely to secure funding as the scoring system more heavily weights traffic volumes and the City is well placed in this regard compared with other Local Government areas in the Great Southern. However, the ranking system of placing new projects last can mean that new projects that score well can still miss out on funding.
16. In the 2018/19 submissions, the City missed out on funding for a number of 'new' project as a large quantity of 'preservation' project were submitted by other Local Governments in the pool.
17. To maximise the funding potential for Road Project grants, the City of Albany proposes to submit preservation projects (highest priority) for the 2019/20 submissions.
18. The State Black Spot funding allocation for the Great Southern has been dramatically reduced in the last couple of years (based on accident statistics) and now equates to approximately \$350k. This funding is aimed at low cost - high benefit safety improvements, for which the City has been reasonably successful in recent years. Each year the City reassesses possible projects and has road safety audits conducted on those short listed as

being suitable. With new projects being identified and considered, applications can vary from year to year.

19. Attachment 1 Details the proposed funding applications for 2019/20 financial year.

### GOVERNMENT & PUBLIC CONSULTATION

20. No consultation required.

### STATUTORY IMPLICATIONS

21. Under section 3.18 of the *Local Government Act 1995*, the City of Albany is to satisfy itself that the services and facilities it provides are managed effectively and efficiently.

### POLICY IMPLICATIONS

22. This document complies with the Council adopted Asset Management Policy, Strategy and Plan – Roads along with the Long Term Financial Plan.
23. The annual application (document) complies with the rules and guidelines governing the Great Southern Regional Road Group allocations for road funding and therefore no additional government consultation has been conducted.

### RISK IDENTIFICATION & MITIGATION

24. The risk identification and categorisation relies on the City's Enterprise Risk and Opportunity Management Framework.

Risk	Likelihood	Consequence	Risk Analysis	Mitigation
<i><b>Finance.</b> Failure to make funding application would result in the City of Albany missing out on a state funding contribution to the road renewal program.</i>	<i>Almost Certain</i>	<i>High</i>	<i>Extreme</i>	<i>Forward planning through adoption of 10 year financial plan to identify opportunities for funding in advance. Note: Consequence high due to effected</i>
<i><b>Opportunity:</b> To maximise road funding through the GSRRG</i>				

### FINANCIAL IMPLICATIONS

25. Cost associated with this item will be included in the 2019/20 review of the ten year financial plan and will be incorporated into the 2019/20 budget.

### LEGAL IMPLICATIONS

26. There are no legal implications related to this report.

### ENVIRONMENTAL CONSIDERATIONS

27. There are no direct environmental considerations relating to this report.

### CONCLUSION

28. It is recommended that the proposed funding list in Attachment 1 be adopted.

<b>Consulted References</b>	:	<i>Local Government Act 1995</i>
<b>File Number (Name of Ward)</b>	:	All Wards
<b>Previous Reference</b>	:	WS121

**DIS109: MOUNT ELPHINSTONE TO CBD CYCLE LINK – COLLIE TO MELVILLE STREET**

<b>Land Description</b>	: Grey Street West road reserve & Reserve No R2681, Mount Melville
<b>Attachments</b>	: Attachment 1 – Mount Elphinstone to CBD Cycle Link
<b>Proponent / Owner</b>	: City of Albany
<b>Business Entity Name</b>	: City of Albany
<b>Report Prepared By</b>	: Manager City Engineering (D King)
<b>Responsible Officers:</b>	: Executive Director Infrastructure & Environment (M Thomson)

**STRATEGIC IMPLICATIONS**

1. This item relates to the following elements of the City of Albany Strategic Community Plan or Corporate Business Plan informing plans or strategies:
  - **Theme:** 3 - Clean, Green and Sustainable.
  - **Objective:** 3.2 - To build, maintain and renew city assets sustainably.
  - **Community Priority:** 3.3.2 - Design, construct and maintain infrastructure cost effectively in a manner that maximises its life, capacity and function.

**Maps and Diagrams:**

Location Plan - extent of project is indicated by the red dashed line.



**In Brief:**

- At the December Ordinary Council Meeting the tender was awarded to commence Stage 1 excluding the section from Melville to Parade Street pending a design review and further consultation.
- The initial design review, and following consultation with the Department of Transport (Funding Partner), demonstrated the need to delay the construction of Parade to Melville Streets in addition to Melville to Collie Street. This is because both these sections included the dedicated separated cycle lane treatment that resulted in loss of Parking.
- Following the consultation with the adjacent residences it is recommended that the section of pathway from Collie Street to Melville Street remains as currently exists.

**RECOMMENDATION**

**DIS109: COMMITTEE RECOMMENDATION**

**MOVED: COUNCILLOR TERRY**

**SECONDED: COUNCILLOR GOODE**

**THAT the Responsible Officer Recommendation be ADOPTED.**

**CARRIED 11-0**

**DIS109: RESPONSIBLE OFFICER RECOMMENDATION**

THAT Council NOTE the following:

1. That the section of pathway between Collie Street and Melville Street will remain as currently constructed at this time.
2. Pathway usage following completion of the Mt Elphinstone link will be monitored.
3. Application will be made to Main Roads Western Australia to post a speed zone of 50km/hr between Parade Street and Maxwell Street.

**BACKGROUND**

2. City of Albany published the Cycle City Albany 2014-2019 Strategy in October 2014. The strategy has a bold vision 'to transform Albany into one of Australia's best cycling destinations, including both on and off road cycling'. To achieve this, the strategy 'aims to improve cycling infrastructure, encourage cycling as a legitimate mode of transport, improve the culture surrounding cycling by encouraging 'sharing the road' and provide more cycle tourism'.
3. The need for a safe route between the suburb of Mount Elphinstone and the CBD for pedestrians and cyclists was highlighted in the strategy. A feasibility study was undertaken the following year, with a route being recommended from a number of options. The recommendations of the feasibility study were adopted by Council in October 2015 and was the basis for funding.



4. The implementation of the project has been split into two stages:
  - Stage 1 runs along the north side of Grey Street West from the intersection of Collie Street through to Carlisle Street.
  - Stage 2 goes from Carlisle Street through the bush above Princess Royal Drive providing a gentle gradient down to a crossing point to the east of the Frenchman Bay Road intersection. The route then crosses Princess Royal Drive and the railway line, continuing alongside the eastern side of Frenchman Bay Road to Woolstores Place where it joins up with the existing shared path which goes through to Little Grove.
5. Grant funds have been secured from the State Government through the Western Australia Bicycle Network (WABN) Grants Program to undertake the construction of Stage 1 in the 2017-18 financial year, and Stage 2 in 2018-19.
6. Staff and elected members attended a site meeting on Grey Street between Parade Street and Collie Street on the 18th December to discuss concerns regarding the planned cycle path.
7. Residents cited issues regarding the general safety of the street and the loss of parking resulting from the cycle infrastructure. It was felt that by removing parking bays on the northern side for the cycle path, additional pressure would be placed on the southern side for parking, exacerbating a historic problem with parking obscuring the vision of driveways.
8. As a result, at the December Ordinary Council Meeting the tender was awarded to commence State 1 excluding the section from Melville to Parade Street pending a design review and further consultation.
9. The initial design review, and following consultation with the Department of Transport (Funding Partner), demonstrated the need to delay the construction of Parade to Melville Streets in addition to Melville to Collie Street. This is because both these sections included the dedicated separated cycle lane treatment that resulted in loss of Parking. The remaining scope incorporated a shared path type treatment providing two distinct sections.

## DISCUSSION

10. During the Design review, investigation into the feasibility of relocating power poles was undertaken to determine the validity of this design constraint. In receipt of the Western Power Quote it was found to not only cost prohibitive but also unviable due to the proximity of critical water corporation assets.
11. Given the site constraints three options were feasible. Pros and Cons for each is outlined below:
12. **Option 1** – Construct the separated cycle path on the North in the area currently occupied by parking bays as per original design.

Pros	Cons
Improved visibility for driveways to the north because converting the parking bays into the 2 way cycle pathway will prevent parking which causes visibility issues when pulling out of driveways	Loss of parking to the North
Retains cycle separation and reduces pedestrian and cyclist conflict	Increased frequency of parking to the South resulting in visibility issues for driveway users to the South
Continuity of design. Improved safety for pedestrians and cyclist by reducing crossing points	
Preferred side of the road for connectivity to Town Square amenity	
Road safety benefit of passive traffic calming via reduction in carriageway width	

13. **Option 2** – Construct the separated cycle path on the South Side of the Carriageway in the area currently occupied by parking bays.

Pros	Cons
Improved visibility for driveways to the south because converting the parking bays into the 2 way cycle pathway will prevent parking which causes visibility issues when pulling out of driveways	Increased conflict for cyclists as there are multiple driveways on the south and few on the north
Retains cycle separation and reduces pedestrian and cyclist conflict	Loss of parking to the South
Road safety benefit of passive traffic calming via reduction in carriageway width	Crossing points required at Meville Street and Collie street for access to the town square and visitors centre

14. **Option 3** – No geometric change – renewal to more appropriate surface when required

Pros	Cons
Change to laws mean that cyclists are allowed on the path resulting in continued continuity of cycle link through to Town Square amenity	Pathway would have to be unmarked (no separation) as width do not conform to standard allowing separation marking
No loss of parking	Inevitable Increased cycle activity will increase pedestrian and cyclist conflict emphasised by limited visibility when exiting residences to the North
Lowest cost option	No Road Safety Benefit

## GOVERNMENT & PUBLIC CONSULTATION

15. A letter was sent out on 08/05/2018 to all the residents and property owners on Grey Street West between Collie Street and Melville Street.
16. The letter included the discussion outlined above and requested feedback on the options including a request to indicate the preferred option.
17. A site meeting was also held on the 16/05/2018 to provide clarity on the options and to discuss any other issues relating to the proposed cycleway.
18. In total, 64 letters were send out with 23 respondents.
19. A total of nine (9) respondents preferred Option 1 -- Construct the separated cycle path on the North in the area currently occupied by parking bays as per original design.
20. A total of fourteen (14) respondents preferred Option 3 - No geometric change – renewal to more appropriate surface when required.
21. No respondents indicated Option 2 as the preferred design.
22. A number of comments were made relating to the design not addressed in the above options as summarised below:

Summarised Design Comments	Response
Extending the 50km/hr speed zone.	Speed Limits are regulated by Main Roads WA. However, the City have assessed the warrants for reducing the speed limit through this section and shall apply to MRWA to extend the 50km/hr zone to include the section from Parade Street to Maxwell Street.
Implementing a 40km/hr speed zone.	40km/hr speed zoning is inappropriate from Collie to Melville Streets and does not comply with Main Road Warrants and therefore unsupported.

	From Town Square to Collie Street the traffic speeds are low and not considered dangerous.
Bike track to Mount Elphinstone should not be located on Grey Street West	A feasibility study, funded by the Department of Transport, was undertaken in 2015 that investigated all the potential options and engaged with all the major stakeholders. The Grey Street West link was recommended. The study was adopted by Council at the Ordinary Council Meeting on the 29 <sup>th</sup> September 2016 (WS085) and can be found in Attachment 1 to this report.

### STATUTORY IMPLICATIONS

23. There are no statutory implications associated with this recommendation.

### POLICY IMPLICATIONS

24. There are no policy implications associated with this recommendation.

### RISK IDENTIFICATION & MITIGATION

25. The risk identification and categorisation relies on the City's Enterprise Risk and Opportunity Management Framework.

Risk	Likelihood	Consequence	Risk Analysis	Mitigation
<i>Reputation: Not constructing the pathway has the potential to cause discontent for some local residences and the cycling community.</i>	<i>Possible</i>	<i>Moderate</i>	<i>Medium</i>	<i>Continue to keep stakeholders well informed of decisions. Commit to monitoring the pathway post completion of State 2 in order to further assess risk of pedestrian and cyclist conflict.</i>

### FINANCIAL IMPLICATIONS

26. Funding for the Melville to Collie Street section has been reallocated to fund the Warden Avenue pathway construction as resolved by Council in May. This is because the external funding has to be utilised in the 2017/18 financial year.

27. If Council resolve to implement Options 1 or 2 officers will need to come back to council with a recommendation to approve the necessary expenditure.

### LEGAL IMPLICATIONS

28. There are no legal implications related to this recommendation.

### ENVIRONMENTAL CONSIDERATIONS

29. There are no direct environmental considerations relating to this recommendation.

### ALTERNATE OPTIONS

30. Council could resolve to proceed with design and construction of Options 1 or 2.

### CONCLUSION

31. It is recommended that Option 3 be supported and volumes of cyclists and pedestrians be monitored following the completion of Stage 2.

<b>Consulted References</b>	:	<i>Local Government Act 1995 Local Government (Administration) Regulations 1996</i>
<b>File Number (Name of Ward)</b>	:	All Wards
<b>Previous Reference</b>	:	WS085 - Mount Elphinstone To CBD Cycle Link Feasibility Study DIS072 - Tender C17029 – Mount Elphinstone To CBD Cycle Link (Stage 1) DIS098 – Warden Avenue Pathway Construction

## DIS110: ALISON HARTMAN GARDENS ENHANCEMENT PROJECT

<b>Land Description</b>	: Lot 1374 239 – 259 York Street - Alison Hartman Gardens
<b>Proponent / Owner</b>	: City of Albany
<b>Attachments</b>	: Concept Plan Package Community Consultation Summary
<b>Supplementary Information &amp; Councillor Workstation</b>	: N/A
<b>Report Prepared By</b>	: Manager Major Projects (A McEwan)
<b>Responsible Officers:</b>	: Executive Director Infrastructure and Environment (M Thomson) Chief Executive Officer (A Sharpe)

### STRATEGIC IMPLICATIONS

1. This item relates to the following elements of the City of Albany Strategic Community Plan or Corporate Business Plan informing plans or strategies:
  - **Theme:** 4: Community Health & Participation
  - **Objective:** 4.2: To create interesting places, spaces and events that reflect our community's identity, diversity and heritage
  - **Community Priority:** 4.2.2 Maintain infrastructure and deliver programs that promote Albany's unique heritage, engender civic pride and leave a lasting legacy

### In Brief:

- In June 2017 funding from Lotterywest and GSDC Royalties for Regions was approved the enhancement of Alison Hartman Gardens.
- Funding contributions required by City of Albany have been allocated in the 2018/19 budget.
- The first stage of the Alison Hartman Gardens Enhancement project was completed in April 2018 as part of the Albany Tourism and Information Hub project.
- The officer recommendations deal with the endorsement of the concept design plans for stage 2 works.

### RECOMMENDATION

#### DIS110: COMMITTEE RECOMMENDATION ( WITH MINOR AMENDMENT)

**MOVED: COUNCILLOR SLEEMAN**  
**SECONDED: COUNCILLOR TERRY**

#### THAT Council:

- **ADOPT** the Concept Designs for *Alison Hartman Gardens Enhancement Project*.
- **APPROVE** the commencement of Stage 2 works.
- **Staff to bring a report to Council regarding design alternatives for the precinct furniture**

**CARRIED: 11-0**

DIS110: RESPONSIBLE OFFICER RECOMMENDATION

THAT Council:

- ADOPT the Concept Designs for *Alison Hartman Gardens Enhancement Project*.
- APPROVE the commencement of Stage 2 works.

Minor Amendment requested to Officer Recommendation, Following discussion on proposed furniture and adding some vibrancy to the artwork, Councillors agreed to ask staff to bring a report to Council on design alternatives,

**BACKGROUND**

2. The City has commenced design development for the second stage of the Alison Hartman Gardens Enhancement Project, having confirmed budget allocations, undertaken community and stakeholder engagement, and completing the first stage of works within the Albany Tourism & Information Hub in early 2018.

**DISCUSSION**

3. Alison Hartman Gardens is an important cultural and historical site for the Albany community with significant potential to contribute to a vibrant and sustainable City Centre. The park does not meet the current and future needs of the City, and has been identified for key improvements under the adopted Central Area Master Plan. A project based upgrade of the grounds has been included in several state and federal funding applications encompassing the Town Square, Town Hall and Library precinct facilities:
  - RfR Southern Investment Initiative - Growing our South 'Great Southern Regional Education and Information Hub' 2016
  - National Strong Regions Fund 'Albany Tourism and Information Hub' Feb 2016
  - Building Better Regions Fund Round 1 'Amazing South Coast City Centre' 2017
4. Alison Hartman Gardens is a keystone in the City Hub precinct being located on York Street between the historic education site (Student Housing development) and newly completed Albany Tourism & Information Hub (Albany Visitors Centre + Library Enhancement). Redevelopment of the park grounds has been identified as a key opportunity to identify and celebrate our local community, history, environment, and visitor economy. Key benefits of the Alison Hartman Gardens Enhancement include:
  - Activation of the city centre and cultural precinct;
  - Improved capacity to host events & performances;
  - Promotion of intergenerational activity;
  - Preservation and interpretation of heritage;
  - Improved safety, lighting and amenity at night;
  - Improved community facilities and levels of comfort;
  - Linking students and library information services;
  - Linking visitors to local community assets values;
  - Enhanced planting & tree preservation strategies;
  - Increased capacity to host, link and promote local and regional trails.
5. At the June 2016 OCM Council noted the Proposed Heritage Listing of the old School Site (including Alison Hartman Gardens) by the Heritage Council of WA.

6. At the September 2016 OCM Council supported an application to the Royalties for Regions Great Southern Regional Grants Scheme (RGS) through Great Southern Development Commission, for enhancing Alison Hartman Gardens.
7. Following a visit by Lotterywest in late 2016, at the June 2017 OCM Council noted the City's proposed application to Lotterywest for enhancing Alison Hartman Gardens and repurposing Albany Town Hall, and resolved to support the application.
8. Grant funding of \$1,600,000 was confirmed on the 30 May 2017 by Lotterywest - \$1million was allocated to the repurposing of the Albany Town Hall and \$600,000 towards the enhancement of Alison Hartman Gardens.
9. RGS funding of \$150,000 was subsequently awarded to Alison Hartman Gardens by GSDC and confirmed on 19 June 2017.
10. City of Albany has confirmed \$200,000 in approved council fund contributions to Alison Hartman Gardens which is required by the two external grant agreements. The working total budget is \$950,000.
11. The first stage of the Alison Hartman Gardens Enhancement was delivered in April 2018 as a key outdoor public space component of the Albany Tourism and Information Hub project, costing in the order of \$328,000 to implement in the 2017/18 financial year. This leaves approximately \$622,000 being carried forward to implement the balance of the project (Stage 2) in the 2018/19 financial year.
12. Additional funding of \$36,364 has been pledged by Department of Planning, Lands & Heritage through Public Open Space Contributions, and a further \$38,382 in redirected Community Chest Funding from Great Southern Development Commission (originally intended for XPD Adventure Race which was cancelled). Final agreements for both funds are currently being confirmed by City officers.
13. Including the additional funding, the Project Budget 2018/19 for Stage 2 is \$696,746 including all design, specialist consultants, preliminaries, approvals, project overheads, construction and contingencies.
14. Above budget allocations do not include future trailhead facilities by Department of Biodiversity, Conservation and Attractions Parks & Wildlife Service, and the interfaces with Student Housing development.
15. Project works which interface with the adjacent Student Housing development have been conceptually designed in consultation with the developer Advance Housing / Department of Education. Advance Housing are expected to make allowances in their construction budget to fund any future additional landscape interface works.

#### **GOVERNMENT & PUBLIC CONSULTATION**

16. Relevant Government departments have been consulted on the project including : Department of Planning, Lands and Heritage / Heritage Council of Western Australia; Department of Education; Department of Environmental Regulation; Department of Aboriginal Affairs; Department of Conservation, Biodiversity and Attractions.
17. The enhancement of Alison Hartman Gardens was identified in the City Centre Master Plan 2010 which undertook extensive consultation.
18. The initial vision for the project was developed by a CBD working group led by the City in 2013/14 to prepare for the Centenary of Anzac, and subsequently advanced within the various funding applications and business cases undertaken for the precinct.
19. Community Engagement activities were undertaken in November 2017 which focussed on engaging the public and ensuring the broader community and surrounding businesses were provided an opportunity to provide comment and suggestions.
20. Community members were informed of the consultation period in local newspaper displays, direct distribution of community bulletins and feedback forms and to Elected Members, and

the City of Albany website. Staffed displays were set up in Town Square and at the Albany Show, with opportunities to provide comment through written feedback forms, social media comment, and verbal engagements. Consultation sessions were held with the City of Albany Youth Advisory Group and Fredrickstown Progress Association.

21. Key elements of the project were identified as historical / of heritage significance and therefore to stay “as is” including Mokare’s Statue, Oak tree, Norfolk Pine tree and historical alignment of path leading to the Head Masters House. Other opportunities to enhance social, cultural and recreational qualities of the park were identified by theme.
22. Consultation with the local aboriginal community revealed strong support for improvements to the setting and interpretation of the Mokare Statue in Alison Hartman Garden, the creation of a commemorative setting on Mokare’s burial site on the corner of Collie Street and Grey Street West, and greater recognition and interpretation of key values and stories in the broader Town Square Civic Precinct.
23. Consultation was conducted via a number of workshops with invited members of the local aboriginal community, facilitated jointly by City of Albany and the Albany Heritage Reference Group Aboriginal Corporation (AHRGAC).
24. In response to the workshops, the creation of a small memorial garden on Mokare’s burial site has been included in the conceptual planning for the precinct for consideration by Council. Whilst some opportunities for funding may be available through Aboriginal Cultural Heritage bodies, the City of Albany currently has no capital works budget allocation for this project and seeks endorsement to continue with further advocacy.
25. Heritage Approval will be required due to the placement of the Old School Site on the Interim State Heritage. Heritage Council of WA has previously supported the Alison Hartman Gardens (letter received November 2017).

### STATUTORY IMPLICATIONS

26. Nil

### POLICY IMPLICATIONS

27. An allocation for Public Art is not required for this project under City of Albany *Art in the Public Domain Policy* since the project is under \$1,500,000 in value, however in recognition of the value of Public Art in enhancing the quality of the built environment and a sense of place, a precinct wide strategy has been developed in accordance with the *City Guideline – Art in the Public Domain*.

### RISK IDENTIFICATION & MITIGATION

28. The risk identification and categorisation relies on the City’s Enterprise Risk and Opportunity Management Framework.

Risk	Likelihood	Consequence	Risk Analysis	Mitigation
<p><b>Finance</b> <i>Risk: Expectations of funding partners not being reached.</i></p>	<i>Possible</i>	<i>Moderate</i>	<i>Medium</i>	<i>Implement the project in accordance with approved concept.</i>
<p><b>Reputation</b> <i>Risk: Community benefit not realised by the project not being implemented and not being consistent with expectations.</i></p>	<i>Possible</i>	<i>Moderate</i>	<i>Medium</i>	<i>Concept plans are approved enabling works to be scheduled.</i>

**Opportunity:** To implement infrastructure enhancements which contribute to a more vibrant and sustainable City Centre.

**FINANCIAL IMPLICATIONS**

29. Funding will be carried forward into the 2018/19 budget for Stage 2 of the project.

**LEGAL IMPLICATIONS**

30. The project will be subject to approvals under the *Heritage of Western Australia Act 1990*.

**ENVIRONMENTAL CONSIDERATIONS**

31. The Department of Environmental Regulation has confirmed the site has not been reported to DER as a known or suspected contaminated site either prior to or after the commencement of the Contaminated Sites Act 2003.

**ALTERNATE OPTIONS**

- 32. Council may elect not to approve the concept designs.
- 33. This may impact on the ability to meet funding obligations and deliver the project.

**CONCLUSION**

34. The concept plans are at a stage for the City to implement. To ensure that the projects are completed in a timely manner in accordance with funding partnerships, it is recommended that council adopt the concept design for the Alison Hartman Gardens Enhancement Project. Further, community consultation has confirmed close ties between key elements of the project ie the *Mokare Statue*, and those of the broader precinct ie the *Mokare Burial Site*, therefore the Precinct Plan has been updated and is presented for further consideration, development and funding advocacy.

<b>Consulted References</b>	:	City of Albany Community Strategic Plan Albany 2030
<b>File Number (Name of Ward)</b>	:	Frederickstown Ward PR.DEC.33
<b>Previous Reference</b>	:	OCM 24 October 2016 PD143 Development and Infrastructure Services Committee Briefing 15 February 2017 Elected Members Briefing Note, 8 May 2017 - Lotterywest Funding Submission - Town Hall and Alison Hartman Gardens OCM 27 June 2017 CCCS035 Elected Members Strategic Briefing 19 June 2018 – Albany City Centre Projects



11. **MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN Nil**
12. **MEETING CLOSED TO THE PUBLIC 9.01PM**
13. **CLOSURE** - There being no further business the Chair declared the meeting closed at **9.01PM**

Agenda Item DIS 104, LSP9 Lot 660, Goode Beach

Thank you, Mr Chairman and Committee Members, I can't describe to you in 4 minutes how disappointed I am with the contentious and biased Officer's Report, recommending LSP 9 be passed by Council.

At the recent DAP meeting, both myself and the Frenchman Bay Association (FBA) supported the revised development proposal for the old caravan park site on FBR. Through good collaboration, the community suggested changes, most of these were completed, and the resulting proposal was much improved. This is how it is supposed to work.

However, at Lot 660, it appears that the CofA Planners have not listened to public opinion at all and in fact have purposely allowed the rules to be 'flexed' to fit the development. This greenfield site is much more environmentally susceptible to impacts (because of the proximity of the Lake Vancouver wetlands) than the brownfield caravan park site.

The Albany 2030 Community Strategic Plan promises:

- *"We will work with you to ensure that your concerns and aspirations are directly reflected in the alternatives developed ....."*

Well, this is what is thought about the LSP 9 proposal:

- At a Special General Meeting of the FBA - 92% against
- Public and Government Submissions - about 80% against
- FBA Petitions - signed version 1,344 against (911 locals, 433 visitors); change.org 5,395 against. locals, tourists and international visitors.
- FBA Presentation to Council; unanimously against.
- DoWER submission - scathing of the water studies completed.

I think the conclusion is obvious, but the Planners generally ignored public opinion in their decision making about LSP 9.

A few other comments from the Officer's Report for your consideration:

- Apparently, "*The applicants were requested by City Staff to do additional work in response to some of the submissions received.....*". What was this work and what were the findings? Transparency?
- "*the current tourist accommodation opportunity within the locality is lacking*". Ridiculous, we already have one planned resort at the caravan park site, can two be viable? Do all the available rentals in the Goode Beach suburb have 100% occupancy during the year?
- DoWER states that on-site sewage disposal is to be located at least 100m from the edge of the wetland vegetation. However, this has now been modified by the Planners to 100m from the edge of open water, thereby bringing sewage disposal much closer to the eastern side of the lake, increasing risk to the lake and circumventing the guidelines.
- "*A groundwater report developed for the subject area concluded that a buffer zone of 60 m between residential development and Lake Vancouver is suitable*". How can this statement carry any weight when the FBA has shown that groundwater studies to date are inadequate to determine characteristics of the lake/groundwater flow systems?
- "*surface water and groundwater data shall be seasonally collected from Lake Vancouver from five existing piezometers and bores.*" As a Hydrogeologist, I can tell you that 5 groundwater monitoring bores are completely inadequate to determine potential impacts on groundwater and the lake. I have said this often in my submissions, but the Planners are still under the misguided impression that water concerns have been answered. Far from it, minimum about 15 bores monitored for 2 years.
- Item 37. DoWER suggested ideal 200m buffer to wetland dependent vegetation, planners say this effectively would reserve the land for conservation. "*If the land was ultimately reserved, the City would be liable for injurious affection and compensation*". This sounds like a scaremonger tactic to convince Councillors to support the Officer's recommendation. The owner bought the block under SU 1 zoning. Stick to it or buyer beware.

Councillors, my name is Max Angus. I live in La Perouse Rd.

Imagine you get a letter in the mail that says there is a proposal afoot to build a motel across the road from where you live.

You'd assume someone has made a mistake since the Local Planning Scheme excludes the construction of a motel on that site. . What's more the Scheme is up to date. It was completely overhauled as recently as 2014.

Then imagine that you learn later that the City's planners are advising the Council to approve the Structure Plan for the motel and then amend the Scheme so the motel development can go ahead.

You would be up in arms. You would expect the Council to step in and put a stop it all. You know that a motel would change the character of your part of Albany.

\*\*\*\*\*

Like most residents I chose to live at Goode Beach, over 20 kms from town because of the 'character' of the place. I was, and am, willing to bear the extra travel time and petrol cost, and forego the amenities that most Albany residents would expect: shops, playgrounds, footpaths, a local school, bus services, and so on. I value the tranquillity and the natural environment.

When I read the papers now before you I was astonished how flippantly the authors dismiss the loss of amenity that would follow of the construction of a 51-unit motel in my neighbourhood.

\*\*\*\*\*

In the section *Character of Goode Beach*, paragraph 57, the authors imply that the impact on the character of the locale is being overstated because the resort is not expected to run at full capacity for lengthy periods. The residents will mainly stay on site using the restaurant, function centre and pool.

On the matter of traffic, they cite an engineering report stating that La Perouse Rd has been engineered to handle 3,000 traffic movements per day. That's irrelevant. The issue isn't the engineering of the road. It's about the impact of the extra traffic on the character of the locale. By their estimate it will treble the volume of traffic. In fact, it is likely to be many times larger. Imagine the traffic and noise when there are weddings at the function centre!

The Officers report does not make a serious attempt to address the loss of amenity. There is no consideration of the papers tabled at the meeting between Councillors and FBA representative. The sub-text in **this** document is that we residents just need to suck it up.

\*\*\*\*\*

I maintain that the City staff and Councillors have a duty to consider not only the interest of a landowner who wants to invest in a motel development but all other landowners who reside at Goode Beach who want to protect the natural and social amenity of this special place.

The report in front of you is not an objective appraisal of the pros and cons but a highly selective presentation of evidence in favour of the development. Further, the attachments to it run to 860 pages, making Councillors reliant on the Officers' flawed report.

Obviously it's easier to go with the flow and adopt the report but I urge you to satisfy yourselves fully that the outcome is in the best interests of ALL concerned. There is no hurry.

If a motel were built on Lot 660 it would wreck not only the environment around Lake Vancouver but also the special character of Goode Beach neighbourhood, not just in the short term, but forever.

Max Angus  
43 La Perouse Rd  
Goode Beach  
11 July 2018

City of Albany, Development & Infrastructure Services Committee meeting, 11 July 2018

DIS 104 LOCAL STRUCTURE PLAN NO.9 – LOT 660 LA PEROUSE ROAD, GOODE BEACH

Mr Chair Cr Shanhun, Councillors, City of Albany officers, ladies and gentlemen.

As president of the Frenchman Bay Association, I would like to commend the City of Albany for having allowed the FBA to present additional information about Local Structure Plan No. 9 (LSP 9) on the 27<sup>th</sup> of June. I was unable to participate, but I was pleased to hear that the occasion was successful. Although still a long way from the kind of participatory planning exercise that I would recommend, as a stakeholder engagement expert of 30 years' standing, it is definitely a step in the right direction.

So, imagine my disappointment on discovering that the FBA's efforts appear to have fallen upon deaf ears, at least in the city's planning department. The current recommendation to this DISC meeting, to approve the LSP 9 proposal, does not seem to have absorbed any of the information presented by my colleagues, all of whom are expert in the field on which they spoke.

Perhaps this is to be expected from overworked officers who are desperate to attract investment dollars to Albany at any cost. Perhaps they genuinely believe that suggesting management plans—that they will have no time to oversee or enforce—will be sufficient to prevent this oversized proposal from spoiling the pristine natural environment of Lake Vancouver. The DISC Terms of Reference undertake to 'protect and enhance our pristine natural environment' whereas this recommendation demonstrates a short-sighted 'she'll be right, mate!' approach.

The city's planning officers may have fallen for this 'she'll be right, mate!' fallacy, but that does not mean that you, our elected councillors, need to be similarly mistaken. Those of us speaking to you today are reminding you how we have clearly demonstrated that LSP 9 is wrong on many levels. I will mention a few of these.

- It is **laughable**, not 'arguable', that 51 units, a function centre, restaurant and manager's residence equate to the 10 low-key chalets actually allowed for the site.
- Our setback and buffers diagram, sent to you this week and discussed tonight by Tony Kinlay shows just how ludicrous it is to try to squeeze such a large development into such a tight and fragile space.

- In addition to the scale of buildings proposed being multiple times what was allowed for the site when the proponents bought it, the process of construction will lay waste to a vast area of fragile sand dunes and wetlands which will likely never recover.
- Although conceding that the area near Lake Vancouver is highly likely to contain evidence of Aboriginal cultural heritage, the recommendation sweeps that aside because Lot 660 is not a registered site under the Aboriginal Heritage Act. The only action recommended is that the State department be notified if artefacts are found during earth disturbing works. Surely the minimum that should be recommended by a city that has declared that it will respect Noongar places of cultural significance is that consultation with Noongar people should take place, likely leading to a cultural heritage survey, before approving development on a potentially important site.
- The DWER recognises the potential damage to the lake of this development and does not support the proposal, suggesting a 200m buffer zone to protect the lake and yet the city is prepared to ignore this advice for fear it would be liable for 'injurious affection and compensation'. Perhaps if the city had advised the proponents to stick to the 10 low-key chalets allowed for the site, they would also have avoided liability.

Surely the principle of 'Buyer Beware' should be applied here! The proponents bought Lot 660 in the knowledge that it was zoned for a low-key development of 10 chalets. Through a desire to make money, not out of a desire to preserve the site's beauty for future generations or to share it with the world's conservation-minded travellers, they are attempting to bend the rules and squeeze as much development into the space as they can get away with. This is pure profit motive, not preservation motive.

You, city councillors, our elected representatives, you do not have to go along with this development at all costs attempt. I encourage you, no I urge you, to think about the future of 'clean and green' tourism in Albany and reject this bad proposal.

Thank you

Dr Catherine  
Macdonald

FBA President

Address by Tony Kinlay delivered and tabled at the City of Albany Development and Infrastructure Services Committee Meeting of 11<sup>th</sup> July 2018

Mr Chairman, Councillors,

You have before you a map and my address distributed earlier. It shows that the Lot 660 proposed development does not comply with state government policies and guidelines on wetland and coastal buffer zones, and is fundamentally flawed.

I will deal first with the wetland buffer zone:-

The map shows the edge of the wetland coloured in speckled green.

The proponents propose a buffer zone of 100m, which they measure from the lake's edge. Two important points need to be made about this.

Firstly, the actual distance between the lake's edge and the parking bays and nearest buildings is 60m and 77m respectively. So the proponents proposed buffer has not been achieved.

Secondly, state policies and guidelines require the buffer to be measured, not from the lake's edge as the proponents have done, but from the edge of the wetland. For conservation wetlands they require a 100m buffer. This is shown on the map as the dotted yellow line on the right. The EPA, in site specific circumstances, will accept a lesser minimum buffer of 50m. This is shown on the map as the solid yellow line on the left that parallels the edge of the wetland.

Looking at the plan, it is clear that whether a standard 100m or a discretionary minimum 50m is adopted, the development encroaches extensively into the required wetland buffer zone. This is totally unacceptable.

Turning now to the coastal buffer zone

The proponents have calculated "erosion hazard lines" for a range of planning time frames.

For the 50-year time frame, it is 68m.

The hazard lines for the 50-year and 100-year time frames are shown on the map as dashed blue lines. Now Councillors, you must not allow yourselves to be misled by these lines. For one thing, their 50 year line actually measures 60m and is therefore 8m less than they acknowledge is required.

Secondly, and more importantly, their erosion hazard lines cannot be treated as lines demarcating the required coastal buffer zone. Under state policies and guidelines a



coastal setback is required for all coastal developments and this is calculated by adding a 30m foreshore reserve to the erosion hazard zone.

The minimum coastal setbacks required are 165m for 100 years and 98m for 50 years.

On the map the 100 year coastal setback is the dotted yellow line on the left and the 50 year coastal setback is the solid yellow line on the right.

Accepting (provisionally) without argument the proponents' preferred 50 year planning time frame, it is clear that their development encroaches 38m into the coastal buffer zone. This, again, is totally unacceptable.

### Summary

Councillors, what the map shows, unequivocally, is that even when allowance is made under state policies and guidelines for a 50m wetland buffer and a concessionary 50 year 98m coastal buffer, the proponents must confine any development on SU1 to the area between the two solid yellow lines. This may accommodate a small number of chalets, very likely less than 10, but it cannot accommodate the proposed development.

For this reason you must reject the planning officers' recommendation to support the Structure Plan, or stand charged with coming to a decision that no reasonable Council could come to.

Now, because of time constraints, I hereby table for the record a report prepared by the Frenchman Bay Association entitled "Lot 660 – Wetland Buffer and Coastal Setback". In it you will find listed and quoted the relevant state policies and guidelines I have relied on. I also table for the record the map "Lot 660 – Map showing proposed development with vegetation, Wetland Buffer and Coastal Setback", and my address to this meeting.

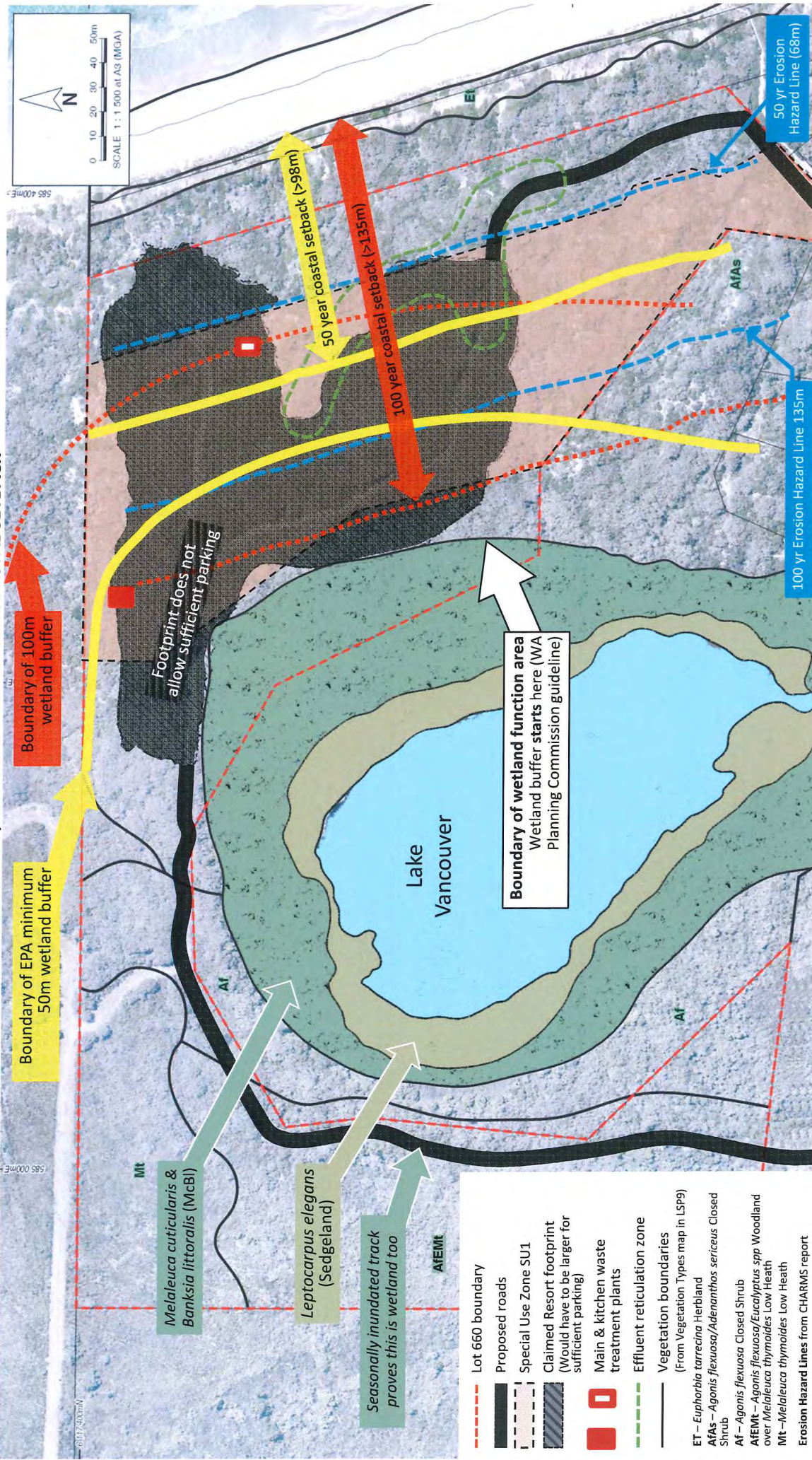
I strongly suggest that the City's planners and Councillors read and consider them carefully because their rational application to the proposed development leads to the inescapable conclusion that Structure Plan No 9 is insupportable.



Tony Kinlay

Frenchman Bay Association, 11 July 2018

LOT 660 – MAP SHOWING PROPOSED DEVELOPMENT WITH VEGETATION, WETLAND BUFFER AND COASTAL SETBACK



**WETLAND BUFFER**

WA Planning Commission, EPA and Government Sewerage Policy all say that the wetland buffer is measured from the edge of the wetland vegetation (speckled green area). EPA guideline says **minimum** 50m buffer (left hand yellow line). Proponents measure from the edge of the open water to the actual buildings – so the actual buffer between wetland vegetation and developed area is less than 5 metres in places.

**COASTAL SETBACK**

Coastal planning policy SPP2.6 says setback must allow for potential erosion with a foreshore reserve remaining afterwards (right hand yellow line).  
But proponents want to build right up to the 50 year erosion hazard line (right hand dashed blue line) with no allowance for foreshore reserve.  
SPP 2.6 says timeframe should be 100 years (left hand dotted red line).

Proponents say resort would have to be rebuilt before 50 years anyway, and if erosion was occurring would build further inland (“managed retreat”).  
But because of the lake and wetland there is no space into which to retreat.

**Applying the policies means the resort would have to fit between the yellow lines.**

# Lot 660 - Coastal Setback and Wetland Buffer

Frenchman Bay Association, 11 July 2018

## Introduction and Summary

Careful examination of LSP9 and of WA planning guidelines shows that the proposed resort cannot be built on Lot 660 without bending the rules on keeping development a suitable distance from the wetlands, and back from the beach.

The drawing on the following page shows how Lot 660 surrounds Lake Vancouver on three sides. The only part of it designated for development is the so-called Special Use Zone SU1, shown in pale brown with a dashed black line border. The proposed footprint for the resort is indicated by the grey hatched area, which spills out of SU1 on the east and west sides.

## Wetland Buffer

The open water of the lake is surrounded by wetland. A principle of WA planning is that new developments should be separated from wetlands (especially pristine ones such as the Lake Vancouver wetland) by an appropriate “buffer” - undeveloped land between the edge of the wetland and the edge of the developed area.

In WA, Australian and international practice, the wetland buffer *begins* at the edge of the wetland, defined as the boundary of characteristic wetland vegetation and/or soil types. This is what the WA Planning Commission guideline says. On the map this is the outer edge of the green speckled area. The Environmental Protection Authority recommends a minimum 50m wetland buffer (shown by the left-hand of the two solid yellow lines), and 100m or more is often required (the right-hand of the two dotted yellow lines). Obviously even a 50m wetland buffer takes out a large part of SU1 and the proposed footprint.

The proponents’ solution is to measure from the water’s edge, not the edge of the wetland, in breach of the WAPC guideline. They state in the Structure Plan that the measurement is 100m, but in fact it scales off as 60m. This is unacceptable.

## Coastal Setback

State Coastal Planning Policy for sites such as this calls for the development to be set back from the shoreline’s permanent vegetation by, broadly speaking:

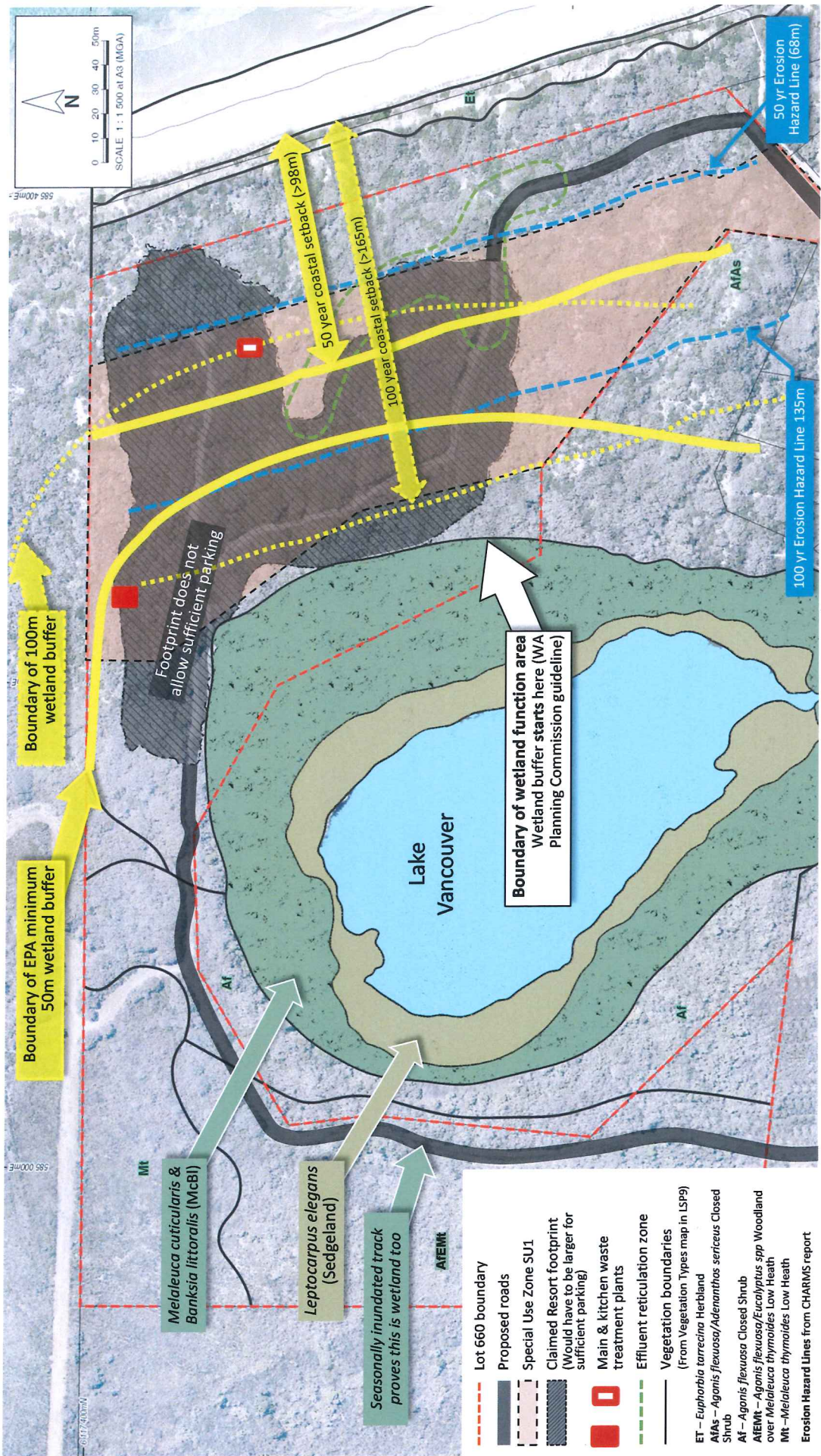
- (a) enough distance to allow for all the erosion that might happen in the lifetime of the development, which is normally taken to be 100 years
- (b) a further distance so that should all this erosion happen there would still be an appropriate foreshore reserve between the development and the shoreline. Currently there is about 30m of public foreshore reserve and a further 30m between the Lot 660 boundary and SU1.

With a 100-year horizon, the proponents’ consultants calculate the erosion hazard line would be 135m inland (the left hand dashed blue line). Add even 30m to that to maintain a foreshore reserve and the coastal setback, in its own right, would occupy almost all of SU1 (the left-hand dotted yellow line). For this reason if no other, the proponents chose a 50-year horizon. Here,

the erosion hazard line is 68m from the permanent vegetation, and the coastal setback would be at least 30m further inland (right hand solid yellow line).

**To allow proper wetland buffer and coastal setback, development must be confined to the area between the solid yellow lines.**

Lot 660 showing resort footprint, wetland buffers, coastal setback etc.



## Coastal Setback

### Coastal Planning Context

The top level WA Government document is the *Planning and Development Act 2005* (as amended), with a succession of lower level policies and guidance below it.

#### HIERARCHY OF DOCUMENTS:

*Planning and Development Act 2005*



*State Planning Policy 2.6: State Coastal Planning Policy (SPP2.6)*



*State Coastal Planning Policy Guidelines (SPP2.6 Guidelines)*



*Coastal Hazard Risk Management and Adaptation Planning Guidelines (CHRMAP Guidelines)*

*Draft Planned or Managed Retreat Guidelines (PMR Guidelines)*

In addition there are:

- The *Coastal Planning and Management Manual* published jointly by the Department of Planning, Lands and Heritage and the WA Planning Commission (WAPC). This is not relevant here because (as it says in section 1.1) it does not directly address such questions as “foreshore reserves and coastal development setbacks, urban drainage disposal [and] groundwater impacts”.
- **Development Control Policy DC6.1**, which is referenced throughout Albany’s *Tourism Accommodation Planning Strategy* (2008) and, through that, in LSP9. This is the former *Country Coastal Planning Policy* adopted by WAPC in 1989 and rescinded in 2013. It appears to be the source of the idea that planning policy specifies an arbitrary minimum coastal setback of 100m or some other distance.

### SPP2.6 Objectives

The objectives of State Planning Policy 2.6 (SPP2.6) are set out at 5.4:

1. *ensure that development and the location of coastal facilities takes into account coastal processes, landform stability, coastal hazards, climate change and biophysical criteria;*
2. *ensure the identification of appropriate areas for the sustainable use of the coast for housing, tourism, recreation, ocean access, maritime industry, commercial and other activities;*
3. *provide for public coastal foreshore reserves and access to them on the coast; and*
4. *protect, conserve and enhance coastal zone values, particularly in areas of landscape, biodiversity and ecosystem integrity, indigenous and cultural significance.*

The lower-level documents must be read as implementing these objectives. They are incorporated in the CHRMAP Guidelines with the rider that

*CHRMAP objectives should be aligned to a decision-maker’s strategic plans based on **the principle of sustainable land use and development for current and future generation.** (p9, emphasis added).*

### Coastal Setback Policy

There is nothing in SPP2.6 and its subsidiary guidelines specifying a 100m or any other fixed setback. Rather, there is a framework for determining the setback appropriate for the particular development. A key part of this involves calculating the allowance that should be made for the action of coastal processes - in effect, potential erosion - over the lifetime of a development. For coastal situations such as Lot 660's, the CHRMAP Guidelines specify that allowance for erosion should be based on:

**S1 Erosion:** Allowance for the current risk of erosion

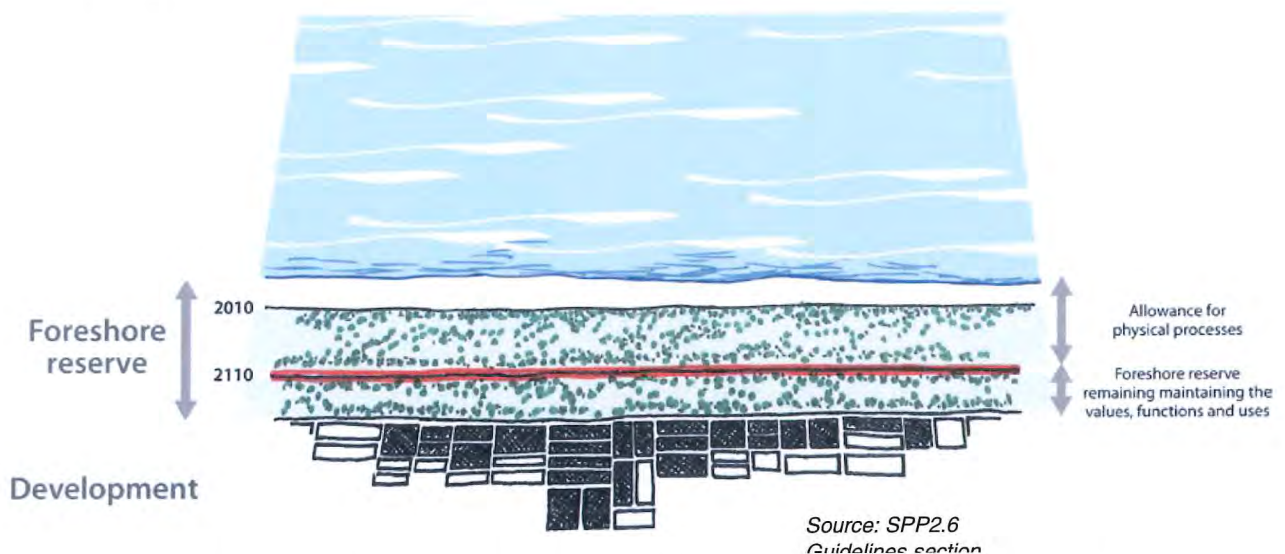
**S2 Erosion:** Allowance for historic shoreline movement trends

**S3 Erosion:** Allowance for erosion caused by future sea level rise.

In addition there is **S4 Inundation** - "Allowance for the current risk of storm surge inundation" - which is a separate issue.

The depth of coastline at risk from erosion over a given period is taken to be S1+S2+S3 plus an allowance of 0.2m per year for uncertainty. The figures for S2 and S3 also get larger as the time horizon gets longer.

In addition to allowing for potential erosion, the framework also requires that the setback be deep enough for an "appropriate" foreshore reserve to remain at the end of the planning timeframe:



This appears in SPP2.6 Section 5.9 and Schedule 1 Clause 1, and also in the SPP2.6 Guidelines, which specify:

*An appropriate coastal foreshore reserve will include the allowance for physical processes [i.e. erosion etc.] ... and appropriate width to ensure a coastal foreshore reserve is maintained should the physical processes impacts be realised over the planning timeframe. In determining an appropriate foreshore reserve width, the intent is that all the values, functions and uses prescribed for current foreshore reserves today will be available at the end of the planning timeframe.*

Albany's Local Planning Strategy also requires the City to:

*Identify during the planning process land to be set aside ... as a foreshore reserve for conservation, management, public access and recreation... (p47).*

In his submission to the City on LSP9, Albany resident Chris Gunby (a former active manager of the Water and Rivers Commission in Albany) states that this was done long ago:

*During the initial Scheme Amendment that provided the present subdivision plan ... the existing 30m wide Parks and Recreation Reserve was reviewed and agreement was reached through the planning and environmental processes that a widening of the reserve to some 70-80m was required. This widening was based on State Government requirements, based on a site assessment and use of relevant policy. In addition controls were recommended and incorporated into the present Local Planning Scheme to ensure development of the adjacent SU1 was to be low density in nature and limited to 10 cabins, with no development to take place close to the extended coastal reserve. This was in order to protect the very steep and fragile dunal system. I recall the above as I was involved in this assessment and final planning outcome, through employment at the Water and Rivers Commission [now the Department of Water and Environmental Regulation].*

To sum up:

- Previous planning identified the need for a 70-80m coastal foreshore reserve.
- At present the effective coastal foreshore reserve at Lot 660 is about 60m, comprising
  - a) The approximately 30m of Reserve R281117763 between the lot and the beach
  - b) A further 30m (approximately) between the boundary of the lot and the boundary of special use zone SU1. In the process that led to the designation of SU1 it was intended that the remainder of Lot 660, including this 30m strip, should become a reserve.

### LSP9's CHARMS

LSP9 includes a Coastal Hazard Assessment and Risk Management Strategy (CHARMS) prepared by consultants MP Rogers & Associates. It explains in detail the process it uses to produce the following estimates for the four erosion components above (p22ff of CHARMS, p77ff of the LSP9 consultation document PDF):

**S1 Severe storm erosion:** 21m horizontally, based - reasonably it appears - on the 1984 storm that damaged Middleton Beach with adjustments for the different location.

**S2 Historical shoreline movement:** 2m horizontally per 50 years, based on aerial photography between 1961 and 2016.

**S3 Sea level rise induced by climate change:** 0.35m over 50 years, 0.9m by over 100 years. This is the DoT guidance adopted by SPP2.6. From this the potential horizontal movement of the shoreline can be estimated: 35m over 50 years, 90m over 100 years. The consultants note that owing to the particular configuration of King George Sound, Frenchman Bay and Goode Beach these figures are likely to be overestimates, and that this is supported by the historical shoreline movement.

Summing these with the uncertainty allowance gives a total of 68m over 50 years and 135m over 100 years; details in the table below.



**Table 3.4 Summary of Allowances for Coastal Erosion Hazards**

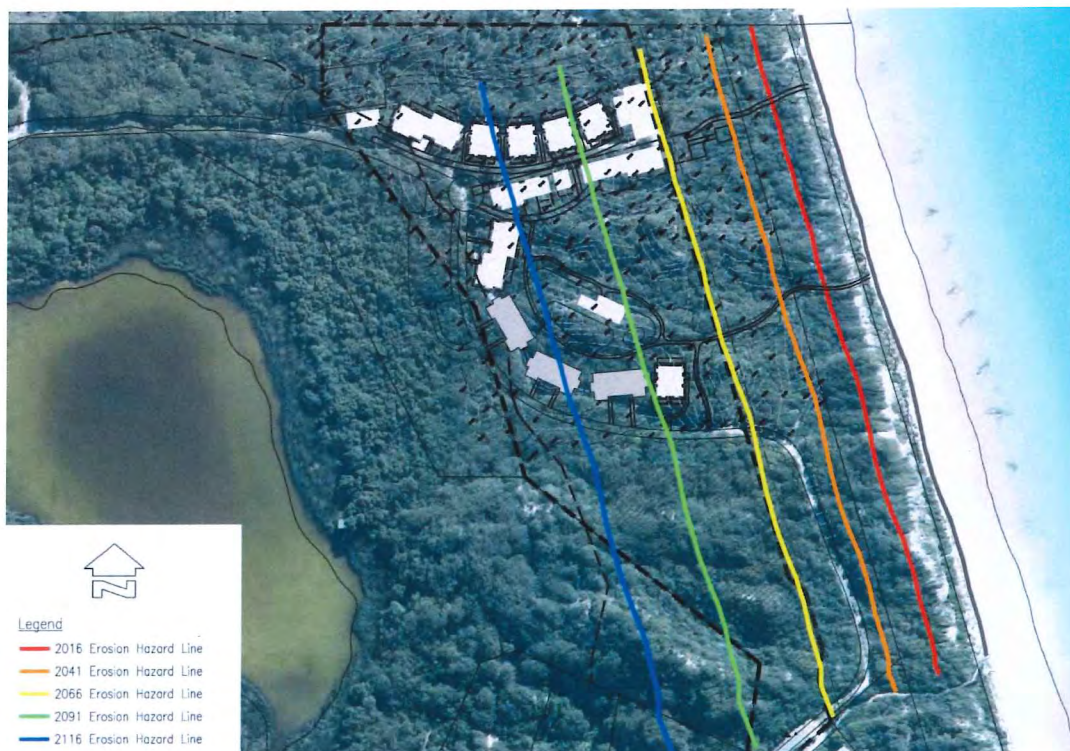
Timeframe	S1 (m)	S2 (m)	S3 (m)	Uncertainty (0.2 m/yr)	Total Allowance (m)
2016	21	0	0	0	21
2041	21	1	13	5	40
2066	21	2	35	10	68
2091	21	3	63	15	102
2116	21	4	90	20	135

Source: Vancouver Beach Resort Coastal Hazard Assessment & Risk Management Strategy p28 (LSP9 p83).

**S4 Inundation:** The consultants calculate that this could reach 2.39m above Australian Height Datum by 2066, or 2.94m by 2116. LSP9 proposes to keep the floor levels of the development higher than this.

#### Insufficient Allowance for Coastal Setback

It is at this point that the problems start. The proponents have taken the 68m fifty-year erosion hazard line from CHARMS and used this as the coastal setback for the resort.



The above illustration (CHARMS figure 4.2) shows the 2066 erosion hazard line in yellow and the buildings right up to it. The dashed black line shows the boundary of SU1: the 2066 line is right up against it.

As we have seen, this does not comply with SPP2.6:

*An appropriate coastal foreshore reserve will include a component to allow for coastal processes and be of an appropriate width to ensure a coastal foreshore reserve continues to provide the values, functions and uses prescribed should the coastal processes be realised over the planning timeframe.*

If a 60, 70 or 80 metre coastal foreshore reserve was appropriate when Lot 660 was created, the presumption must be that it is appropriate now and would continue to be so into the future. But LSP9 proposes building right up to the 50-year erosion hazard line. That is, if for whatever reason severe erosion were to occur, the resort's buildings would be poised on the edge of the beach and there would be zero foreshore reserve.

As the map demonstrates, however, if even 30m is allowed for foreshore reserve behind the erosion hazard line there is not enough space in SU1 to build a resort.

### **Design Life and Managed Retreat**

The presumption throughout the SPP9 framework is that coastal setbacks will be calculated using a 100-year timeframe. If that applies to Lot 660 the resort cannot be built even with no foreshore reserve behind the erosion hazard line.

The proponents avoid this problem by assuming that the resort would have to be rebuilt anyway before 50 years simply to keep up with market requirements. That is a reasonable assumption given the nature of the tourist resort business. As CHARMS puts it:

*Beyond the initial 50 year planning horizon it is likely that the built form will need to be replaced. This replacement of the built form will provide an opportunity for a **managed retreat** of the infrastructure. Under this scenario the replacement infrastructure should be relocated to an area that is deemed to be safe for the ensuing planning horizon based on the results of a coastal hazard assessment completed at that time. The design of the new layout for the resort will therefore need to respond to the results of that coastal hazard assessment.*

Commenting on this, DWER stated:

*For the proponents of this development to dismiss state policies and instead state that they will plan and manage for a 50-year sea level rise is negligent to future owners and investors in the property as well as local and state government authorities that may be expected to protect the infrastructure from erosion.\**

The problem is that, as the map on page 3 demonstrates, **there is nowhere to retreat to**. The resort is already right up against the edge of the wetland vegetation. If after 40 or 50 years substantial erosion has taken place and the resort needs rebuilding to keep it going in a competitive market, it won't be an attractive investment. The result will be decline, decay and ultimate abandonment. Does anyone expect that the then owners of the site will be able to pay for remediation?

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\* Great Southern Weekender, 5 July 2018, p1.

### Coastal Foreshore Management Plan

LSP9 proposes that a Foreshore Management Plan would be prepared and submitted with the eventual Development Application. This is not satisfactory: SPP2.6 calls for a foreshore management plan to be prepared at an early stage:

#### *Coastal strategies and management plans*

- (i) *Ensure that at rezoning, structure planning, subdivision, strata subdivision or development - whichever arises first and is appropriate in scale, a coastal planning strategy or coastal foreshore management plan is prepared and implemented, by the local government and/or proponent, for the coastal foreshore reserve and any abutting freehold land with conservation values of the subject land.*
- (ii) *Any structure plan, zoning, subdivision, strata subdivision or development proposal for public purposes, residential, industrial, commercial, tourist, special rural and similar uses on the coast is only approved based on or in conjunction with a current detailed coastal planning strategy or foreshore management plan (whichever is appropriate for the stage and scale of development).*
- (iii) *Ensure that the coastal planning strategy or foreshore management plan is developed in consultation with the broad community and relevant public authorities, and achieve the approval of the local land manager and the WAPC if appropriate. (SPP2.6 Section 5.10(i))*

Albany's Local Planning Strategy (ALPS) also requires preparation of a foreshore management plan (p47).

The circumstances of Lot 660 make early preparation of a foreshore management plan particularly important:

- The proposed emergency access/egress road through the dunes is extremely close to the gazetted foreshore reserve and actually within the area that was meant to extend it.
- Construction of the resort itself would also require extensive clearing and earthmoving close to the gazetted foreshore reserve and extending beyond SU1 into the "reserve" part of the lot.

### Wetland Buffer

As with coastal setback, the proposed resort can only be built by ignoring the usual rules on separating developments from sensitive wetlands.

The principle is that there should be an adequate "buffer" of land between a wetland and a development. The actual size of the buffer is determined on a case by case basis and is typically at least 100m in the case of a rare unspoilt wetland system like that surrounding Lake Vancouver.

Always, the rule is that **the wetland buffer is measured from the edge of the wetland vegetation.**\* International and Australian scientific practice is to define wetlands by their vegetation (because the ground may be wet one season or one year but not the next). This is spelt out in WA policy documents including the following. Relevant extracts are included in the appendix to this document.

- EPA Guidance Statement 33 *Environmental Guidance for Planning and Development*
- WA Planning Commission *Guideline for the Determination of Wetland Buffer Requirements*
- *Draft Government Sewerage Policy.*

The *Guideline for the Determination of Wetland Buffer Requirements* explains it this way:

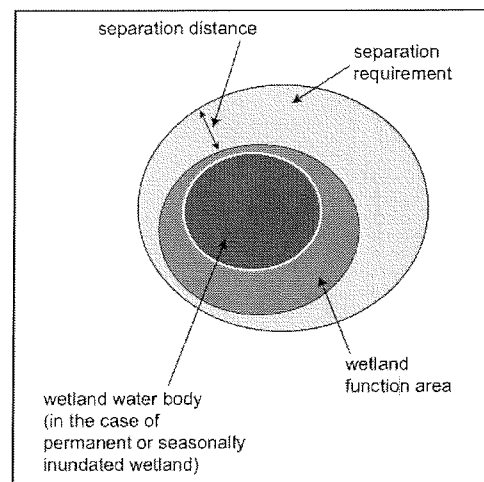
### THE CONCEPT OF WETLAND BUFFERS

Figure 1 shows the proposed buffering concept in terms of the three basic areas requiring definition to provide separation for the wetland:

- the wetland water body;
- the wetland function area; and
- the separation requirement.

The wetland function area is the area which needs to be protected to ensure the important functions and values of the wetland can be maintained. The wetland function area is the spatial boundary of the wetland. It normally would include the wetland itself and the wetland vegetation...

The wetland function area often will require additional separation from surrounding land use(s) to ensure its protection and compatibility with the land use.



And the EPA specifies

*Wetlands that are to be protected require a minimum 50 metre buffer distance. (Attachment B4-3, p18)*

But the map on page 3 shows that the proposed development is right up against the edge of the wetland vegetation (the mottled green area) and that the minimum 50m buffer (the left hand solid yellow line) eats up a large part of the proposed footprint. A 100m buffer (the right-hand dotted yellow line) takes almost all of it.

The proponents' and planners' response to this problem is to ignore it. They claim a 100m buffer but only by ignoring the wetland vegetation and the rules and measuring from the edge of the water in the lake to the edge, not of the developed area but of the buildings.

The justification appears to be that if the proper buffer was allocated the proposed resort could not be built. Which is rather the point: it may be possible to build up to ten low-key chalets on Lot 660 with appropriate setbacks and buffers, but not a 51-unit five star resort.

### Effluent Disposal

The Draft Government Sewerage Policy states (section 6.4(1)(e):

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\* In the case of an extensively damaged wetland where the vegetation can no longer be recognised, from a point where changing soil types indicate the wetland vegetation used to be: but this is not the case at Lake Vancouver.

- e) *An on-site sewage disposal system should not be located within 100m of a significant wetland. The separation distance for wetlands should be measured outwards from the outer edge of wetland vegetation. Setbacks may also be required from other wetlands identified for protection or rehabilitation through relevant planning or environmental plans or strategies. These will be determined on a case-by-case basis. The Department of Parks and Wildlife may provide advice.*

But as the plan shows, the main waste treatment plant is proposed to be located within about 50m of the outer edge of the wetland vegetation. Both treatment plants and a substantial part of the reticulation zone into which the treated effluent will be piped are within 100m. Almost all of the reticulation zone is also in front of the 50-year erosion hazard line (which, strangely, does not appear to be a problem under either SPP2.6 or the Draft Government Sewerage Policy).

# Appendices

## Excerpts from City and State Documents

### Excerpt from Local Planning Scheme No. 1

LPS1 (Schedule 4, page 156) designates part of Lot 660 as Special Use Zone 1, “Holiday Accommodation (Chalets)”. It imposes the following conditions on proposed developments:

1. Prior to commencement of development of the special uses on the site, the owner/developer shall submit an overall Development Guide Plan to the Local Government for endorsement.
2. The Development Guide Plan shall provide details on the development for the site including:
  - (a) Achieving a low-key holiday accommodation development commensurate (maximum 10 Chalet/Cottage Units) with the fragile coastal nature of the area;
  - (b) Buildings being clustered together;
  - (c) Siting of buildings and access roads within degraded/cleared areas to minimise clearing required for servicing and built development;
  - (d) The buildings to be sited away from the eastern boundary with the coastline to protect coastal processes and the significant sand dunes in this area;
  - (e) Building density, design, colours and materials to blend the buildings within the site;
  - (f) Coastal setbacks and Foreshore Management Plan;
  - (g) On-site stormwater drainage, effluent disposal methods and impacts on Lake Vancouver hydrology;
  - (h) Potable water supply;
  - (i) Implementation of a Fire Management Plan incorporating the existing fire access tracks within the area; and
  - (j) Any additional controls required to be implemented to ensure the proposal complies with the objective of providing low-key holiday accommodation on the site.

### Excerpts from Guidelines for Planning in Bushfire Prone Areas

#### DEFINITIONS

**Precautionary principle:** The presumption against approving further strategic planning proposals, subdivision and development applications or intensification of land uses, where there is a lack of certainty that the potential for significant adverse impacts can be adequately reduced or managed in the opinion of the decision maker. Strategic planning proposal: Any strategic-level planning proposal including: region scheme amendments; district structure plans; local planning strategies; local planning schemes and amendments; and structure plans and master plans - but does not include subdivision and development applications.

**Unavoidable development:** Development that, in the opinion of the decision-maker, represents exceptional circumstances where full compliance with this policy would be unreasonable; no alternative location exists; it is not minor development; and it is not contrary to the public interest. Examples of what constitutes unavoidable development are provided in these Guidelines.

**Vulnerable land use:** A land use where persons may be less able to respond in a bushfire emergency. Examples of what constitutes a vulnerable land use are provided in these Guidelines.

#### 5.7 UNAVOIDABLE DEVELOPMENT IN A BUSHFIRE PRONE AREA

SPP 3.7 policy measure 6.7.2 states there is a presumption against approving any strategic planning proposal, subdivision or development application\* that will result in the introduction or intensification of development or land use in an area that has or will, on completion, have an extreme bushfire hazard level and/ or where BAL-40 or BAL-FZ applies unless it meets the definition of unavoidable development.

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\* Excluding development applications for single houses and ancillary dwellings on a lot or lots less than 1,100m<sup>2</sup>

For the purposes of this policy, unavoidable development is defined as “development that in the opinion of the decision-maker represents exceptional circumstances where full compliance with SPP 3.7 would be unreasonable as no alternative location exists and it can be proven that it is not contrary to the public interest”. In all instances, the intent of the bushfire protection criteria, as outlined in these Guidelines, should be met.

There would be an extremely limited number of proposals deemed unavoidable development. For example, proposals for intensification of development or land uses, such as rural-residential development or an increase in residential densities would not be considered unavoidable development.

Unavoidable development may include critical State infrastructure such as railway lines, telecommunication facilities, electricity infrastructure and associated development, development associated with the preservation of historical or cultural sites, or emergency services such as evacuation centres, fire stations/ brigades, police or ambulance facilities.

Applications for unavoidable development will only be supported where they meet the policy requirements of SPP3.7. It is the landowner/proponent’s responsibility to justify why their proposal should be considered as unavoidable development. In such cases the proponent must also identify how significant reductions in the bushfire risk level to the community can be achieved. In addition, provide a clear indication of the benefits and how these outweigh the costs to adjacent landowners/proponents, government and the general community. The application must also be accompanied by a Bushfire Management Plan jointly endorsed by the relevant local government and the Department of Fire and Emergency Services. In the absence of sufficient justification the proposal will not be supported.

## **Excerpts from EPA Guidance Statement 33 *Environmental Guidance for Planning and Development***

### **GLOSSARY (Appendix 1)**

**Buffer:** In relation to a significant natural area, the adjoining area in which general development is prohibited and special measures are applied to maintain the ecosystem health of the significant natural area.

### **IDENTIFYING WETLAND BOUNDARIES (Attachment B4-3, page 18)**

Identification and delineation of a wetland is reliant upon characteristics of hydrology, hydric soils and wetland vegetation (Hill et al. 1996). Wetland vegetation reflects hydrology and hydric soils and in particular obligate wetland species (i.e. those plants generally restricted to wetland habitats) are considered reliable wetland indicators (Tiner 1999). However, when wetland vegetation has been altered or removed and the hydrology is difficult to determine hydric soils may be the only reliable wetland indicator remaining...

Wetlands that are to be protected require a minimum 50 metre buffer distance.

### **KEY ENVIRONMENTAL PRINCIPLES**

#### **1. The precautionary principle**

Where there are threats of serious or irreversible environmental damage, lack of full scientific certainty should not be used as a reason for postponing measures to prevent environmental degradation. In the application of the precautionary principle, decisions should be guided by:

- careful evaluation to avoid, where practicable, serious or irreversible damage to the Environment
- an assessment of the risk-weighted consequences of various options.

#### **2. Intergenerational equity**

The present generation should ensure that the health, diversity and productivity of the environment is maintained or enhanced for the benefit of future generations.

Conservation of biological diversity and ecological integrity

Conservation of biological diversity and ecological integrity should be a fundamental consideration.

### **BROAD SCALE PLANNING (A1.4.1)**

When development has the potential to have adverse environmental impacts, field survey work, modelling, assessment, and advice by experts may be appropriate early in planning. If this is not done or if sufficiently detailed information is not available, this should be clearly noted to assist future information gathering and

assessment, and a precautionary approach taken. Some, if not most, issues will need to be considered in a context that is larger than the immediate planning area, as environmental issues may extend beyond the study area boundaries.

#### **EPA'S BROAD PRINCIPLES FOR THE PROTECTION OF WETLANDS (B4.2)**

##### **Avoid impacts on wetlands**

... The EPA's position is that it is preferable to avoid direct, indirect and cumulative impacts that may adversely affect the attributes and functions of wetland areas. In all cases where some loss of any wetland value or function is unavoidable, the EPA recommends that compensatory actions are implemented, with a view to achieving 'no net loss of wetland values'.

#### **Excerpt from State Planning Policy 2.6 (State Coastal Planning Policy)**

##### **5.11 Precautionary principle**

- (i) Where there are threats of serious or irreversible environmental damage, lack of full scientific certainty should not be used as a reason to postpone measures to prevent environmental degradation.
- (ii) The onus is on any proponent to show that development does not pose any likelihood of serious or irreversible harm to the environment.
- (iii) If the proponent cannot demonstrate there is not a likelihood of such harm, the onus is on the development proponent to show that the harm can be managed

#### **Excerpts from WA Planning Commission *Guideline for the Determination of Wetland Buffer Requirements***

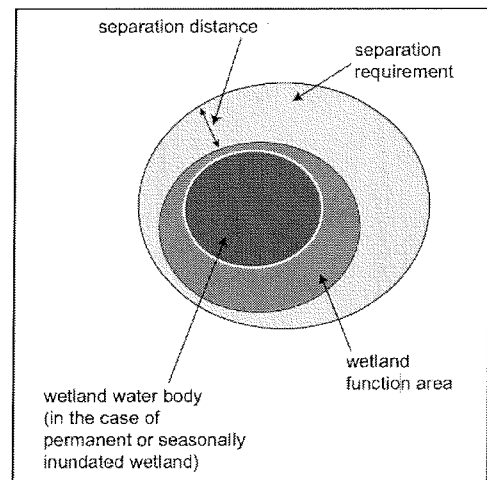
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Figure 1 shows the proposed buffering concept in terms of the three basic areas requiring definition to provide separation for the wetland:

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- the separation requirement.

The wetland function area is the area which needs to be protected to ensure the important functions and values of the wetland can be maintained. The wetland function area is the spatial boundary of the wetland. It normally would include the wetland itself and the wetland vegetation...

The wetland function area often will require additional separation from surrounding land use(s) to ensure its protection and compatibility with the land use.



#### **6.1 CATEGORY C WETLANDS**

Attributes identified as having high importance relative to achievement of the aims of the conservation (C category) management category are:

- Ecological**
- presence of rare, endangered, restricted, endemic or vulnerable species and/or communities;
  - supports high habitat diversity;
  - important for maintaining species and/or ecological diversity;
  - supports extensive areas of emergent and fringing wetland vegetation;
  - water quantity and quality; and
  - drainage (to and from the wetland) and presence of nutrient sources.
- Other Criteria**
- rare or unusual wetland within a region;



- Australian heritage commission criteria – important for natural or cultural history (4 separate criteria); and
- unaltered or unusual wetland vegetation, fauna or processes.

**Human Use**

- aesthetics;
- wilderness function;
- research resource/scientific importance; and
- educational significance.

**Table 8: Category C wetlands: Separation and management**

Key threatening process	Recommended Separation and/or management	Separation area management
Alteration to the water regime	Regulation of groundwater abstraction as catchment management measure	<ul style="list-style-type: none"> <li>• Area to be vegetated with deep-rooted perennial vegetation</li> </ul>
Habitat modification	<ul style="list-style-type: none"> <li>• 100 m weed infestation</li> <li>• Up to 100 m for bird habitat dependent on extent of use</li> <li>• 6-50 m firebreak</li> <li>• Fence for controlling exotic fauna access</li> <li>• ≥100 m to minimise edge effects</li> </ul>	<ul style="list-style-type: none"> <li>• Preferably native plant communities</li> <li>• 6m firebreak minimum, inside of fence</li> <li>• Fence to limit vehicle, stock, exotic fauna access</li> </ul>
Inappropriate recreational use	<ul style="list-style-type: none"> <li>• ≥ 50 m to improve aesthetics</li> <li>• ≥ 50 m for barrier</li> <li>• Fence, paths for controlling access</li> </ul>	<ul style="list-style-type: none"> <li>• Clear perimeter outside of fence (path, firebreak, road.</li> <li>• Fire control to maintain habitat and species diversity</li> </ul>
Diminished water quality	<ul style="list-style-type: none"> <li>• Drainage inflows eliminated or managed</li> <li>• Where a proposal may affect wetland water quality, particularly through un-channelised flow, detailed site specific work should be undertaken to determine the specific separation measures required, including management measures</li> </ul>	<ul style="list-style-type: none"> <li>• Minimise track access/clearing, maximise native vegetation</li> <li>• Management for water quality outcomes as required</li> </ul>

(Source: Welker Environmental Consultancy, 2002)

**Excerpt from Draft Government Sewerage Policy****Section 6.4(1)(e):**

An on-site sewage disposal system should not be located within 100m of a significant wetland. The separation distance for wetlands should be measured outwards from the outer edge of wetland vegetation. Setbacks may also be required from other wetlands identified for protection or rehabilitation through relevant planning or environmental plans or strategies. These will be determined on a case-by-case basis. The Department of Parks and Wildlife may provide advice.

**Address by Roley Paver to DIS Committee Meeting, Albany, 11<sup>th</sup> July 2018**

I endorse everything Tony Kinlay has said about the failure of the Structure Plan to comply with state requirements regarding wetland and coastal setbacks. You have seen that the proposed development is hard up against the wetland to the west and against the proponents 50 year erosion hazard line to the east. There is no wetland buffer zone beyond the wetland and there is no 30 meter foreshore reserve beyond the proposed erosion hazard zone.

These fundamental flaws in the Structure Plan are clearly identified by DWER in its submissions to the City of Albany. (See No's 68 and 84 in the Schedule of Submissions which I urge you to read).

Firstly, in relation to the wetland setback, I will paraphrase what DWER said expressly and by implication. It said 1) that what needs protecting is not only the lake but also the wetland around it, 2) that this is to be done by way of a buffer zone surrounding and measured from the edge of the identified wetland, and 3) that this buffer zone must be managed not to permit development within it but to protect the wetland. The proponents, and the planning officers in their report, have responded to all this with arguments that are totally spurious. I do not need to go into them. It is sufficient for me to say that they treat the wetland as the wetland buffer zone, a totally absurd proposition that flies in the face of not only state policy statements but also the provisions of the City's own LPS.

Secondly in relation to the costal setback, DWER has this to say and I quote: "For the proponents of this development to dismiss state policies and instead state that they will plan and manage for a 50 year sea level rise is negligent to future owners and investors in the property as well as local and state government authorities that may be expected to protect the infrastructure from erosion. Managed retreat is not an option for this site which is constrained by the presence of Lake Vancouver. Further additions to the coastal reserve should be secured at this stage". The response to this by the proponents and the planning officers, is to impose a caveat on the title of Lot 660, to treat this caveat as if it were a hard and fast guarantee against the consequences of erosion, and to throw the environmental and financial cost of the consequences on the state and hence the community in the event of bankruptcy. And they say nothing about the required additional 30m coastal buffer west of the 50 year erosion hazard line other than to assert ambiguously that the proponents' "coastal report has been reviewed and accepted by the

Department of Planning Lands and Heritage and the Department of Transport". What, pray, is meant by this? Accepted in form or in substance? If these Departments have accepted it in substance one would expect written proof of this to be laid out in the Schedule of Submissions. It is not there.

Mr Chairman, Tony Kinlay has shown that having rational regard for the state's policy statements and guidelines on wetland and coastal setbacks Council cannot support the proposed development. I will say no more on this.

But there are other cogent reasons for rejecting the Structure Plan that need airing. The planning officers have made much of the environmental approval given by the Minister for the Environment to Loire Nominees' in 1993. What they have not disclosed in their report is 1) that this approval was conditional on planning consent, 2) that the Minister for Planning withheld his consent to the subdivision of that part Lot 401 now known as Lot 660 and 3) that he did so expressly to preserve the natural landscape features of the site and the visual amenity of the area. These reasons are as cogent today as they were in 1998/9.

Now, having failed to draw attention to these relevant considerations, the planning officers did draw attention to something the Minister said when he declined to allow special residential subdivision on Lot 660. What he said, however, is not recounted in full; so I will make good their omission. He said that Loire Nominees might like to consider an amendment for, and I quote, "a well designed low key holiday development (10 Chalets) clustered in an area of the site clear of steep slopes". I emphasise the last 4 words "clear of steep slopes" for two reasons. Firstly they are consistent with his determination to preserve the naturally vegetated parabolic dunes, which he referred to as the natural landscape features of the site. Secondly they inform the provisions of SU1 in LPS1 which require the Structure Plan to achieve a low key holiday accommodation development of up to 10 chalets, and here I quote, "commensurate with the fragile coastal nature of the area".

Now, planning officers and City Councillors are or should be aware that the proposed development envisages the clearing of natural vegetation and the flattening and re-contouring of parabolic dunes. It is not, in the words of the Minister, "clear of steep slopes". Nor is it "commensurate with the fragile coastal nature of the area". It is in fact environmental vandalism and should be rejected out of hand.

Name - 109 La Perouse Rd

local structure plan ?

I am a resident of Goode Beach and not a member of the FBA. I'm here because I am one of many people with serious concerns over the development. <sup>Lot 660 La Perouse Rd,</sup>

My husband and I moved to Albany <sup>as a professional couple</sup> from over east because we were drawn to the landscape and environment around the Great Southern. We spent years travelling around Australia, and we couldn't top what this region had to offer.

I now am fortunate enough to work in an organisation whose core purpose is to protect our natural resources. <sup>within the Great Southern.</sup>

We had a document launched last year, a snap shot highlighting the areas of environmental priority within the great southern region. This document was collated by industry professionals and highlights the importance of connecting environmental corridors in order to allow flora and fauna to thrive. We have a coastal corridor, in Goode Beach, at Lake Vancouver and its pretty important. It comprises of pristine remnant vegetation, often has carnaby cockatoos roosting and is also home to ringtail possums. As residents we <sup>have</sup> get the privilege of seeing first hand, the important <sup>and</sup> of this area. An amendment this year to the commonwealth Environmental Protection and Biodiversity Conservation Act of 1999 transferred the status of the western ringtail possum from vulnerable to critically endangered, the most extreme level of vulnerability. Given this, it is likely that any development on this site falls foul of this legislation. Furthermore it contradicts the principles of land clearing as outlined within schedule 5 of state Environmental Protections Act 1986. At very least, it will cause fragmentation to the corridor and seriously compromises the integrity of this environment.

I'm not an environmental expert, but nor are most of us here. But I trust the experts who have already voiced their concerns. The same environmental experts that this council have previously trusted for advice on other matters. I sincerely hope that the council heed the expert advice on this matter also.

As we are in the middle of NAIDOC week, I want to acknowledge the civic reception the city held on Monday night. It demonstrated genuine respect for the rich noongar cultural heritage in this area. With that in mind, I am concerned that there is not more consideration given to the confirmed cultural significance of the site, in particular the identification of an historical middens.

The council has recently approved a development at Frenchman Bay, very close to this site. The decision to develop on this site was clearly less controversial. Surely the council can see that a second development of a similar nature, in virgin bushland, where the damage to the environment is so high, is completely unnecessary.

Thankyou for hearing me.

Heardiam  
11-7-2018

Wednesday, 11 July 2018

Speakers for ←

LOT 660 LA PEROUSE RD.

Good Evening Everyone

My name is Adrianna and I am here tonight <sup>as a mother</sup> as a voice for my young family and perhaps other families in the Goode Beach Community. Goode Beach may have a reputation for being a retired community, but I want it to be known that this couldn't be further from the truth. Goode Beach is becoming more and more a community for families.

<sup>myself</sup> We and my family live right opposite the resort <sup>on top of the lake.</sup> I reside at 69 La Perouse road where the proposed exit of the resort will meet <sup>my home</sup> La Perouse. ~~I will live ...right..... Opposite this exit.~~

My concerns are over my children's safety. Not only my children, but the many other children and residents that walk on this road EVERY day. Did you know that to the left of my house where the cauldersac meets the road, there are 5 families with young children? And to the right <sup>of the road</sup> there are more than 10 families ~~and that's just the bottom part of the community~~ <sup>and beyond the rest of the community roads and housing.</sup>

These children every day walk to and from the bus stop or run down to the beach with their mates. These children (like all children) like to ride their bikes and walk with their parents, walk to their friends houses... doing what most young children like to do. But my concern is this...as you may be aware there is **no footpath** for these children to walk. So you can maybe understand my predicament when thinking about the resort and cars coming to-from...in and out... stopping, starting, (...speeding in and around) . Who is going to look after the safety of the residents who live in my community.

The Bird Hide walk is also on La Perouse, not only will the tourists be visiting this, but I can honestly tell you many locals from Albany city come to the hide to check it out. We have a large number of vehicles parking up on verges and on the road. Imagine when word gets out there is a really nice restaurant that's open for people to come and enjoy. Tourists, residents and locals alike will <sup>walking up and down the road.</sup> ~~need~~ <sup>be</sup> somewhere to park? There are several blind spots on the road, corners where you can't see traffic coming towards you. A narrowing on La Perouse that almost squeezes down to one lane.. Its not an ideal situation. ~~the way the roads and non-existent paths are currently mapped.~~

I have concerns around tourists coming to stay at the resort (who aren't familiar with the area, international drivers especially) . They may not be aware that children and residents do walk on the road because ... how would they? If you've been on the road 5 hours from Perth you are more than likely to have driving fatigue and perhaps not have your wits about you when arriving at Goode Beach.

What will be done about the safety of residents in Goode beach?



I would also like it to be noted, that the resort will be blocking my view of the ocean. I know as a recent builder that several complaints where made when we were building in and around what can and can't be done...So I am therefore letting you know that the height of the two storey apartments will take out <sup>the view is</sup> what little view I have of the ocean. Where by the way I saw 5 whales playing yesterday. ☺ ~~This~~ why we purchased the block in the first place..



Thank you for listening.

Adrianna Stainwright.

69 La Perouse Road, GOODE BEACH 048 7788 265

Good evening. My name is Linda Matthews and I live in La Perouse Road in Goode Beach.

Thank you to the Mayor and Councillors for listening to me.

I am speaking against building a resort at Lot 660 in Goode Beach. I am not a NIMBY or a silvertail as some of the phrases that have been bandied about imply. I am merely a resident concerned with the comprehensive destruction of a small area of undisturbed bushland that will take place if this "Eco Resort" receives your approval. I have read the documents prepared by dedicated members of the FBA and presented to the City Councillors and Planning Department a fortnight ago *in camera*, and I am struck by the depth of scientific talent in such a small community. It is a shame the council has not made better use of this knowledge in its own preparations for this decision.

Science is a study of the material functions in a physical universe. It revolves around absolutes, be it in the fields of biology, geology, and hydrology as these local experts explained. And yet, the developers plan to bulldoze the sand dunes and all the bushland growing upon them leading to the certainty of polluting a pristine lake - and all in the name of building an "Eco Resort". Surely you all have a well-developed sense of irony and can see the contradiction between the "Eco" label and the reality.

Points No 35 and 36 on the agenda for this evening draws attention to the DBCA comment on Lake Vancouver stating that more detail on potential impacts would be useful. Aurora Environmental has responded with a completed and targeted survey of the area and found no trace of the Threatened Flora Species Blue Tinsel Lily. I question how thorough the survey can have been as their careful examination seems to have completely missed the colony of Albany Wetlands Sundew (*Drosera paleacea*) on the edge of the access road. This is one of only three occurrences of this plant in the entire world.

The main entry road will also destroy an important local population of the babe-in-a-cradle orchid (*Epiblema grandiflorum*) an exquisite patch of violet that appears on the edge of the current track each December and the only site known on Torndirrup peninsula. Its requirements are precise, during its early growth the plant stands invariably in water but by the time its flowers appear the water table has dropped below the soil surface<sup>1</sup>.

Point no 55 on tonight's agenda states "internal access roads are proposed along existing tracks". This is not a lot of information given the impact it will have. It makes no mention of the fact that the current access track, which has been nominated for the main approach to the resort, is underwater for 4-5 months every winter and spring so will require a substantial causeway to be built through the wetlands. It is estimated that it will require vegetation clearing to a width of 17.5m if an all-seasons road is built over the existing, and often inundated track. Goodbye Sundew and goodbye Babe-in-a-Cradle Orchid. The seasonal rise and fall of the water level on this track also raises the question of just where the edge of the lake starts and finishes – is it the minimum seen in summer or the maximum seen in winter?

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<sup>1</sup> Page 237 of Orchids of the South West (2<sup>nd</sup> edition) by Neil Hoffman and Andrew Brown

On several occasions I took part in gathering signatures for a petition that was lodged with Council earlier this year. We chose the sites of the Saturday and Sunday Farmers Markets as these particular spots are well supported by locals and visitors alike. **Every** person that I approached from out of town, interstate or overseas was happy to sign the petition. We explained what the developer wished to do and they all expressed horror that this environmental destruction could be contemplated. Several visiting Europeans made the comment on how this would not be permitted in Europe as they have instituted strict laws prohibiting development in untouched areas. Now, these are the people you are expecting to stay at this resort ... the Albany locals won't be staying there as who takes a holiday in their own backyard?

I appreciate the need for more tourism to be generated in our City. It leads to more jobs and a stronger regional economy. But please choose your sites more wisely. There is a perfectly good sandpit waiting for development in Middleton Beach. It is a site that has been demolished and built upon many times so it can only be enhanced from now on. It is close to town and therefore presents more spontaneous choices of museums, galleries, shops, cafes and restaurants for visitors to spend their money. Do not permit the destruction of untouched bushland in a misguided attempt to attract tourists. Visitors come here to enjoy Amazing Albany so let's keep it Amazing.

Thank you